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COUNCIL ON FOREIGN RELATIONS

CHARLES P. HOWLAND
DIRECTOR OF RESEARCH

SURVEY OF AMERICAN FOREIGN RELATIONS

1930

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SURVEY OF

AMERICAN FOREIGN RELATIONS

PREPARED UNDER THE DIRECTION OF

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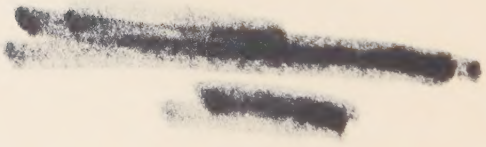

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PREFACE

DURING the first years of this annual SURVEY an effort is being made to provide for certain foreign relations of the United States the background—historical, cultural, economic—without which those particular relations cannot be well understood. From this point of view some account was given in the SURVEY, 1928 of the developments of the fundamental traditions of the United States in foreign policy, and the discussion of Disarmament was preceded by an outline of the evolving naval policies of Great Britain and the United States. Similarly the SURVEY, 1929 contained a brief account of the background, as well as the American relations, of the Caribbean republics other than Mexico.

In the present volume it is sought to combine with a record of its foreign relations a similar background for "the territory called China" which contains one-fourth of the human race; for to understand the chaos which has been produced in China by the disintegration of the old order it is necessary to have some appreciation of the elements of Chinese social life and traditions. Some of the folkways of the people are presented and an attempt is made briefly to indicate the effect upon them of the impact of western civilization, aggressive, possessed of an irresistible momentum, using all the resources of large-scale organization—the impact of a mineral upon a vegetable civilization or of a locomotive upon a wheelbarrow civilization.

Obviously not enough background is given to satisfy those who "know their China." A survey of all such movements would cover the recent labor problems arising out of industrialization, the progress of the peasant and of the women's movements, the decay of communications, the progress in the modernization of the army, the growth of the Chinese press, the obvious changes in the material culture of the people—such as the use of glass instead of paper for windows and the introduction of electric power and lighting in the large cities.[1] The aim is to suggest only that part

[1] For a serious study of the Chinese culture-pattern and of its modern evolution there are, among a host of books, Frank Goodnow, *China, An Analysis;* Richard

of Chinese ancient ways and of the new movements in the lives of the Chinese which essentially bear upon their foreign relations.

There is not the same necessity for giving an equivalent background for United States relations with Japan. That masterful nation is compact, disciplined, modernized in the western sense, conscious and purposeful as to the direction of its destiny, and has a front place in the continuous sessions of the great nations.

A short narrative is given of the arrival of Americans in the Far East, the growing contacts, the opening up of China and Japan, and the gradual formation of policies to meet the pressure of European rivalries and to keep abreast of the new order of things which is coming to pass in the Pacific.

The short chapter on the Philippines is strictly limited to their international relations and the questions which they raise for the United States, avoiding treatment of the desire of the Filipinos themselves for independence, and the forces in the United States —idealistic or selfish—which support or go counter to that desire.

There is a chapter describing briefly the manner in which powerful nations—Great Britain, France, the United States, and Japan—have preëmpted the islands anchored singly or in groups in the boundless stretches of the Pacific. The significance to be drawn from this chapter is that noted by Benjamin Kidd in his prophetic *Control of the Tropics*,[2] published in 1898:

> It is not even to be expected that existing nations will, in the future, continue to acknowledge any rights in the tropics which are not based both on the intention and the ability to develop these regions.

In the treatment, under the title, Alien Enemy Property, of the claims of Germans whose property was sequestrated by the United States during the War, claims now adjusted by the "Settlement of War Claims Act" of March 10, 1928, some historical setting is added in order to show the relation between the World War legislation of the United States and the earlier trend of policy here and elsewhere; for similar comparison an outline is given of cor-

Wilhelm, *The Soul of China;* Paul Monroe, *China, A Nation in Evolution;* Bertrand Russell, *The Problem of China;* Arthur N. Holcombe, *The Chinese Revolution;* M. T. Z. Tyau, *China Awakened.*

[2] P. 47.

responding measures taken by the countries allied in the War against the Central Powers.

The major contributions of scholars to this year's volume are those of Professor H. F. MacNair of the University of Chicago, who prepared the chapter on the United States in the Pacific and Far East; of Professor George H. Blakeslee of Clark University, who organized the material which was used in the chapter dealing with the post-Washington Conference relations of the United States and China, and whose unpublished manuscript was used in the Islands of the Pacific; of Professor R. D. McKenzie of the University of Washington, who prepared the chapter on Migration in the Pacific Area; of Professor J. S. Burgess, late of Yenching University, Peking, who supplied the material and did the major part in preparing the chapter on the Emergence of Modern China, a chapter to which Grover Clark also gave substantial assistance; and of Dr. Ernst Correll of Washington, who furnished useful material for the chapter on Alien Enemy Property. The rest of the volume has been written by the director and the staff—Martha Anderson; Doris H. Cochrane; Herbert B. Elliston, who gave particular attention to the chapters on economic relations in the section on the New Pacific, and on the Young Plan; and David W. Wainhouse, to whom is mainly due the chapter on Limitation of Armaments.

Help cordially given has been received from Professor James W. Angell, Philip Noel Baker, Professor Edward M. Borchard, H. B. Caton, Professor Joseph P. Chamberlain, J. B. Condliffe, Frank R. Eldridge, Mansfield Ferry, Judge F. C. Fisher, Professor Kenneth S. Latourette, Lewis Lorwin, Walter H. Mallory, Professor C. F. Remer, Nicholas Roosevelt, His Excellency Charalambos Simopoulos, Professor Nicholas J. Spykman, and Professor George Grafton Wilson.

C. P. H.

New Haven, Connecticut,
June 15, 1930.

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I.
THE NEW PACIFIC

IT may be said that the function of a *Survey of American Foreign Relations* is to set forth the evolving relations between the United States and the various states with which it has to deal—without attempting to expound their history, institutions, or cultures. National histories have been written and cultures are continually being described. It is true that a comprehension of the culture and institutions of a nation increases the wisdom of those who have to deal with that nation or its people, as it is true that he of great understanding is slow to wrath. He would have a better understanding of European politics and of their consequences who knew the story of Lotharingia, the great undefined territory watered by the Saône, the Moselle, and the Meuse, and the struggles over it since the Verdun partition agreement of 843; and American opinion on problems of limitation of naval armament would certainly be affected by a study of British institutions —the rise of the Labour party and its absorption of the progressive "intellectuals," the subordination of the conservative and more nationalistic "Lords" to the greater international interests of manufacture and trade in the "Commons," and the devolution of the Empire of Victoria into the loose and anomalous organization called the British Commonwealth of Nations.

In the case of China acquaintance with the people's ways is, indeed, essential to a comprehension of its anomalous foreign relations, for China resembles no other member of the sisterhood of nations in its history, in its institutional characteristics, or in the organization of its social and political life—indeed, to use the term "organization" of the internal affairs of China is to come perilously near the *lucus a non lucendo* of description. China has never been what modern readers understand by the term "nation," but has been for some twenty-one hundred years a sort of "world-state"; not equivalent to either the ancient Persian or the Roman Empire, but resembling them more than any modern state, with rudimentary but sufficient political institutions alongside of mature, ethical, aesthetic-philosophical culture, and possessing with the life-tenacity of the amoeba the power to absorb foreign bodies without any interruption of the continuity of its essential exist-

ence. The comparatively recent waning of that power creates one of the difficulties for the modern Chinese consciousness.

In this China, embalmed like a bee in amber, a character of life, a set of mores, developed, became inveterate, and was sanctified by age into a religion. The successive founders of dynasties, whose energy made them masters of the enormous aggregation of village communities called China, left undisturbed these traditional values. Without some glimpse at these mores, without some understanding of Chinese "ways" which have persisted so long as not easily to be shaken off or dissolved, and which are obstacles to the formation of a highly organized state and the discharge of those responsibilities exacted of any nation by modern international standards and international "law," without knowing something of the tensions created in the body of Chinese society by the resistance of the proved and worthy "old" to the irresistible, destructive, and creative "new," it is impossible to grasp the difficulties for Americans or Chinese in attempting to establish right relations between the two peoples, or even to follow the pattern of Sino-American relations that is woven upon "the roaring Loom of Time." This section attempts, therefore, especially in the second chapter, an outline sketch of some of the intimate ways of the Chinese, and of the evolution they are undergoing under the hammer impact of western civilization.

CHAPTER ONE

THE UNITED STATES IN THE PACIFIC AND FAR EAST

IN the one hundred and forty-six years during which the citizens and government of the United States have had relations with the peoples and governments of the Pacific and Far Eastern areas, two policies are clearly disclosed: first to demand for United States citizens treatment no less favorable than that accorded those of any other government; second, to give moral encouragement and diplomatic aid to the nations of the Far East in the maintenance of their independence and administrative and territorial integrity. No body of American opinion has ever questioned those policies, however singular it may seem for Americans who are alarmed at the idea of "entanglements" with Europe to be moved to enthusiasm for a Far Eastern policy compounded of quixotism on behalf of China and of concern for American trading interests. In the long run the two policies are congruous, although the tradition of fostering a strong Asia runs the risk of jeopardizing American trade in an open competition; the policy of fair field and no favor contains no guaranty that the proponent of the policy will occupy a favorable place in the race.

In the Far East the United States has been faced by three possibilities, viz.: evasion of problems by withdrawal, development of its own policy with an ultimate use of force if necessary, and coöperation with the other interested Powers. The two last the United States has tried alternately.[1] Burlingame and Seward were strong exponents of coöperation with the European Powers. Later, in keeping with its policy of strengthening the nations of the East which showed any ability and will to help themselves, the United States turned toward Japan for coöperation. Against Europe the United States aided Japan to strengthen itself, to free itself from foreign limitations upon its sovereignty as Japan demonstrated proof of its ability to play the part of a responsible Power in the family of nations—a policy which did not gain

[1] Cf. Tyler Dennett, *Americans in Eastern Asia* (1922), pp. v–ix.

popularity for the United States with the European Powers having possessions in the East. Partly as a result of this and partly because of other conditions the United States found itself, toward the close of the century, isolated to a considerable degree in the East. This may account in part for the attitude of some of the Powers of continental Europe at the time of the Spanish-American War, and undoubtedly explains in some degree the decision of the United States Government to hold the Philippine Islands, though the decision was in line with a slowly formed American policy of building up influence in the Pacific. Then came a return to coöperation with the European Powers and rising Japan; announced by Secretary Hay in 1899 as the open door policy, this was chiefly a restatement of most-favored-nation treatment.

Until the beginning of the first Wilson administration in 1913, the policy of coöperation was generally adhered to although it received a setback at the time of the Knox neutralization proposal. Gradually it became clear that the Anglo-Japanese and other alliances were practically nullifying the policy, and with the opening of the World War the United States perforce fell back to play its hand alone; in 1917 an attempted return to cooperation is to be seen in the negotiation of the Lansing-Ishii Notes. Further evidence lies in the steps taken in 1918 to form a new consortium, and in the negotiations at Paris. A complete return was made at the Washington Conference where for the first time China itself was invited to coöperate. In the years which have passed since that Conference the United States has, in the main, coöperated with the other Powers.

In the Pacific area as a whole three nations are in control: Japan, Great Britain, and the United States. The interests of France and the Netherlands are considerable but these nations have little influence; China and Russia are only potentially significant.

The late Henry Morse Stephens divided Pacific history into four periods: (1) the first chapter opened with the arrival of Europeans at the beginning of the sixteenth century and lasted during the two hundred years of Spanish supremacy; (2) the

second chapter was dominated by the conflict between European nations and ended with the occupation of the eastern coast line by Canada and the United States; (3) the third chapter covered the greater part of the nineteenth century during which European nations made spasmodic attempts to secure Pacific footholds, and the power of new Japan rose; (4) the fourth chapter began with the completion of the Panama Canal, the closer contact between Europe and the Pacific introducing economic and political changes.[2]

Beginning of Diplomatic Contact with China.

In all but the first era, the United States has played a part of no small significance. During the Jamestown period of Virginian history attempts were made to discover a route to the Pacific Ocean by way of the Chickahominy River; before the Revolution Americans purchased ginseng from the Indians to exchange for China tea from British vessels, and in 1784 an American vessel, the *Empress of China*, sailed from New York to Canton with a cargo of ginseng. Its appearance at Whampoa, the anchorage for foreign vessels in the Canton River, coincided with that of the English ship, *Lady Hughes*. A shot fired from the latter in salute accidentally caused the death of a Chinese. In the difficulties which ensued Samuel Shaw, the supercargo of the American vessel, coöperated heartily with the English, French, Dutch, and Danish for the protection of the Canton factories. Shortly after his return to New York, the Continental Congress showed its appreciation of his success in establishing direct trade with China by "electing" him as first United States merchant consul. Early in 1787 Shaw took up his duties at Canton, the only port open to foreign trade after the edict of 1757 had closed Amoy, Foochow, Ningpo, and the Formosan ports.

In the China experience of Samuel Shaw appeared two principles which have been followed more or less consistently in American relations with respect to Pacific and Far Eastern coun-

[2] *The Pacific Ocean in History*, eds. H. Morse Stephens and Herbert E. Bolton, pp. 23–33.

tries: the policy of coöperation, and that of demanding for Americans most-favored-nation treatment.

Acceptance of Chinese Jurisdiction.

Within a short time American commerce with China was surpassed only by that of the English. In Canton the position of Americans was a peculiar and on the whole a favored one. Unimpeded by any such organization as the English East India Company, and spared (except for the years 1812–14) participation in the Napoleonic wars, the Americans were free-traders in a monopolistic world. They were left largely to fend for themselves. Until 1854 the United States was represented by merchant consuls, when it had consular representation at all; in the case of Canton this was less than one-third of the time, and between 1806 and 1815 Americans vainly petitioned Congress for the appointment of a non-merchant consul who should have an official residence and an adequate salary. The occasional appearance in Chinese waters of United States naval vessels caused the American merchants trepidations lest their trade be cut off by the Chinese officials upon whose favor they depended. With a zeal comically shrewd they tried to make clear to the Chinese the difference between Americans and Englishmen; in this aim they enjoyed at least the moral support of their Government from the days of Jefferson to those of Van Buren.

The degree to which Americans leaned upon Chinese authority and recognized the claims of China prior to 1844 is clearly manifested in two statements sent to Cantonese officials in the years 1805 and 1821, respectively. Protesting to the governor of Canton against British search of American vessels in Chinese waters and impressment of seamen, the Americans declared

> that by the ancient and well established laws and usages of all civilized nations, the persons and property of friendly foreigners within the territory and jurisdiction of a sovereign and independent Empire, are under the special protection of the government thereof, and any violence or indignity offered to such persons or to the flag of the nation to which they belong, is justly considered as done to the government within whose territory the outrage is committed;

That by the same law of nations, the civil and military agents of the government are strictly prohibited from assuming any authority whatever within the territory of the other nor can they seize the person of the highest state criminal, who may have eluded the justice of their own![3]

At Canton, in September, 1821, Francesco Terranova, an Italian sailor on an American ship, was accused of causing the death of a Chinese woman; surrendered to the jurisdiction of the local officials he was given a trial which was a travesty of justice, and strangled. During the course of the affair, the Americans protested at the broken promises of the officials and the unfair trial but are reported to have admitted their acceptance of Chinese jurisdiction in the following (or similar) words:

We are bound to submit to your laws while we are in your waters, be they ever so unjust. We will not resist them. You have, following your ideas of justice, condemned the man unheard. . . . It is no disgrace to submit to your power surrounded as we are by an overwhelming force, backed by that of a great empire. You have the power to compel us.[4]

Origin of Extraterritoriality.

In the spring of 1839 it became clear that war between England and China was inevitable. A newly appointed imperial high commissioner acted vigorously to stop the opium trade, ordering all foreigners to remain inside the factories. After several weeks the Americans determined to memorialize Congress for assistance. Reviewing the opium situation, and expressing disapproval on moral and economic grounds, they respectfully advocated governmental action

in concert with the Governments of Great Britain, France, and Holland, or either of them, in their endeavors to establish commercial relations with this empire upon a safe and honorable footing, such as exists between all friendly powers; and, by direct appeal to the

[3] Quoted by Dennett, *op. cit.*, p. 84.

[4] *North American Review,* XL (1835), 66. This appears not to be a direct quotation but rather a summary of the statement to the Chinese made by the Americans in response to an inquiry regarding their intention to resist the Chinese by force.

Imperial Government at Peking, to obtain compliance with the following among other important demands:

1st. Permission for foreign envoys to reside near the court of Peking on the terms and with all the privileges accorded at other courts. . . .

2d. The promulgation of a fixed tariff of duties . . . regulations permitting the transshipment of such goods as it may be desirable to re-export for want of a market in China. . . .

4th. The liberty of trading at other port or ports in China than that of Canton.

5th. Compensation for the (recent) losses . . . and security for the free egress from Canton, and other ports, of all persons not guilty of crimes or civil offenses, at any and at all times.

6th. That until the Chinese laws are distinctly made known and recognized the punishment for wrongs committed by foreigners upon the Chinese, or others, shall not be greater than is applicable to the like offense by the laws of the United States or England; nor shall any punishment be inflicted by the Chinese authorities upon any foreigner, until the guilt of the party shall have been fairly and clearly proved.

The sending of

an agent or commission . . . with a sufficient naval force to protect our commerce and our persons . . . as well as to secure a participation in any privileges which this Government may hereafter be induced to concede to other powers

was urged. In conclusion the American merchants expressed their

candid conviction that the appearance of a naval force from the United States, England, and France, upon the coast of China, would, without bloodshed, obtain from this Government such acknowledgments and treaties as would not only place our commerce upon a secure footing, but would be mutually beneficial, and greatly increase the extent and importance of our relations with this empire.[5]

This document and subsequent actions show that the English and the Americans in the China trade were in essential agreement as regarded a solution of the problems which both were facing on the China coast. Both wanted to shift the center of diplomatic

[5] *House Doc.* 40: 26–1.

negotiations from Canton; both wanted fixed tariffs and a cessation of dickering and palm-greasing as well as the opening of new ports; both wanted to pursue peaceful measures for the protection and development of trade, which they held was as advantageous to the Chinese as to themselves, but they believed in the governmental use of force if nothing else would serve. Consciously or unconsciously following the precedent set by Samuel Shaw in 1784, the Americans on the scene of action, far removed from domestic politics, advocated a policy of peaceful coöperation with England. Most significant of all was the changed attitude which had come in the eighteen years since the Terranova affair. Extraterritoriality itself was not suggested, but out of the thought made manifest in the memorial of 1839, and the incidents which lay back of the thought, grew that solution at which Caleb Cushing arrived in 1844.

During the course of the first Anglo-Chinese War such American sympathy as was expressed was mostly with China. On March 16, 1840, Cushing, after referring to the memorial from Canton, prayed that he might be divinely prevented from entertaining

> the idea of coöperating with the British Government in the purpose, if purpose it has, of upholding the base cupidity and violence and high-handed infraction of all law, human and divine, which have characterized the operation of the British, individually and collectively, in the seas of China.[6]

On this display of conscious virtue Mr. Dennett dryly comments:

> Thus began the myth in the United States, at a time when the Americans at Canton were riding rough-shod over Commissioner Lin's embargo on English trade, and smuggling the English cargoes for the season, both in and out of the port, that the American in China was an angel of light.

At least one member of Congress was able to forget for a time Anglo-American grievances and to look beneath the surface of events in China. In a lecture on the War with China, delivered in December, 1841, before the Massachusetts Historical Society,

[6] Quoted by Dennett, *op. cit.*, p. 104.

John Quincy Adams reviewed Chinese policy and foreign relations:

> The fundamental principle of the Chinese empire is anti-commercial. . . . It admits no obligation to hold commercial intercourse with others. It utterly denies the equality of other nations with itself, and even their independence. It holds itself to be the centre of the terraqueous globe . . . and all other nations with whom it has any relations, political or commercial, as outside tributary barbarians reverently submissive to the will of its despotic chief. It is upon this principle, openly avowed and inflexibly maintained, that the principal maritime nations of Europe for several centuries, and the United States of America from the time of their acknowledged independence, have been content to hold commercial intercourse with the empire of China. . . . Britain has the righteous cause. . . . The opium question is not the cause of the war. . . . The cause of the war is the kowtow!—the arrogant and insupportable pretensions of China, that she will hold commercial intercourse with the rest of mankind, not upon terms of equal reciprocity, but upon the insulting and degrading forms of the relation between lord and vassal.[7]

Adams' remarks on this occasion were no more popular than those of Balaam to Balak on the occasion of his blessing of the Israelites; American editors, sensitive to the prejudices of the masses, hesitated to publish Adams' remarks, as their successors hesitated to print accounts of the Nanking outrage of 1927. Nevertheless these views did not greatly differ from the line taken by the Tyler administration in the explicit directions of Secretary of State Webster to Cushing when the latter was chosen two years later to negotiate a treaty with China, the one in close touch with the Boston firms and their representatives in Canton and the other guided by the advice of the merchants at Macao. Cushing was by no means to allow himself to be ranked in China as a "tribute-bearer" and, although he was to recognize the laws and commercial regulations of China, he was "to assert and maintain, on all occasions, the equality and independence of [his] own country."

[7] *Chinese Repository,* XI, 274–289.

From the days of Samuel Shaw most-favored-nation treatment had been the object of the policies of American residents in China and of their Government at home. The Americans differed from the English mainly in being willing to coöperate in the maintenance of the *status quo*. After the dissolution of the East India Company monopoly there was no one to regulate the British adventurers in Canton, and they made trouble; the Americans could wait, and were willing to do so rather than to run the risks involved in upsetting the *status quo*, especially as they profited by the ill-will which the British engendered among the Chinese. At this time the new-world spirit of adventure was less noticeable than the Yankee desire for gain.

Shortly after the signing of the Treaty of Nanking and before he knew of it, the American Commodore, Kearny, requested assurance from the Manchu governor of Kwangtung that American citizens should "be placed upon the same footing as the merchants of the nation most favored."[8] Such an assurance he received from Kiying, governor of Canton, in this urbane form:

> Decidedly it shall not be permitted that American merchants shall come to have merely a dry stick (that is, their interests shall be attended to). I, the Governor, will not be otherwise disposed than to look up to the heart of the great Emperor in his compassionate regard toward those men from afar, that Chinese and foreigners with faith and justice may be mutually united, forever enjoy reciprocal tranquillity, and that it be granted to each of the resident merchants to obtain profit, and to the people to enjoy life and peace, and universally to participate in the blessings of great prosperity, striving to have the same mind.[9]

Early in 1843 the Commodore seized the opportunity to state that his Government would "demand" for its merchants whatever was granted by the emperor "to the traders from other countries."[10] The formal incorporation of the principle which motivated both English and Americans is to be found in Ar-

[8] *Sen. Doc.* 130: 29–1, p. 21.
[9] Dennett, *op. cit.*, pp. 108–109.
[10] *Ibid.*, p. 109.

ticle VIII of the Anglo-Chinese Treaty of the Bogue, October 8, 1843, which reads in part:

> . . . should the Emperor hereafter, from any cause whatever, be pleased to grant additional privileges or immunities to any of the Subjects or Citizens of such Foreign Countries, the same privileges and immunities will be extended to and enjoyed by British subjects. . . .[11]

Cushing's main object in China was by the negotiation of a treaty to insure permanently for American traders as good treatment as that thus assured the English. The American envoy landed in Macao on February 24, 1844. On June 16, while he was still waiting to begin negotiations, a group of Americans at Canton, attacked by a mob, was forced to use firearms in self-defense; a Chinese was killed. Reversing the precedent established twenty-three years earlier in the Terranova case, Cushing refused to submit the case to the jurisdiction of China. Since the roots of extraterritoriality, as far as the United States is concerned, are to be found in Cushing's letter to the American consul at Canton on this occasion, it is worthy of quotation.

> The nations of Europe and America form a family of States, associated together by community of civilization and religion, by treaties, and by the law of nations.
>
> By the law of nations . . . every foreigner, who may happen to reside or sojourn in any country of Christendom, is subject to the municipal law of that country, and is amenable to the jurisdiction of its magistrates on any accusation of crime alleged to be committed by him within the limits of such country. . . .
>
> In the intercourse between Christian States on the one hand, and Mohammedan on the other, a different principle is assumed, namely, the exemption of the Christian foreigner from the jurisdiction of the local authorities, and his subjection (as the necessary consequence) to the jurisdiction of the minister, or other authorities of his own government.
>
> One or other of these two principles is to be applied to the citizens of the United States in China. . . . In my opinion, the rule

[11] *Treaties, Conventions, etc., Between China and Foreign States,* Published at the Statistical Department of the Inspectorate General of Customs, I, 393.

which obtained in favour of Europeans and Americans in the Mohammedan countries of Asia is to be applied to China. Americans are entitled to the protection and subject to the jurisdiction of the officers of their government.[12]

Not until July 3, and after he had expressed himself in correspondence with the acting viceroy of Kwangtung "with extreme plainness and frankness" and relieved himself, as he reported, of "all the harsh things which needed to be said," did Cushing succeed in signing a treaty at Wanghia, near Macao. Article II provides the safeguard sought:

> Citizens of the United States resorting to China for the purpose of Commerce will pay the duties of import and export prescribed by the Tariff. . . . They shall in no case be subject to other or higher duties than are or shall be required of the people of any other nation whatever. . . . And if additional advantages or privileges of whatever description be conceded hereafter by China to any other nation, the United States and the citizens thereof shall be entitled thereupon to a complete, equal, and impartial participation in the same.

In Articles XXI and XXV was incorporated the principle of extraterritoriality:

> Subjects of China who may be guilty of any criminal act toward citizens of the United States shall be arrested and punished by the Chinese authorities according to the laws of China, and citizens of the United States who may commit any crime in China shall be subject to be tried and punished only by the Consul or other public functionary of the United States thereto authorized according to the laws of the United States. . . .
>
> . . . All questions in regard to rights, whether of property or person, arising between citizens of the United States in China shall be subject to the jurisdiction of and regulated by the authorities of their own Government. . . .[13]

In negotiating his treaty Cushing had an opportunity to insist

[12] H. F. MacNair, *Modern Chinese History,* Selected Readings, pp. 60–61. The general principle of extraterritoriality is treated on pp. 176–193.

[13] *Treaties, etc.* (see footnote 11), I, 677–690.

upon the recognition of national equality. In his first dispatches, Kiying, the Manchu negotiator, raised the name of China and its ruler two spaces and that of the United States one space. Cushing at once returned the paper, stating to Kiying his

> belief that Your Excellency will see the evident propriety of adhering to the form of national equality, the observance of which is indispensable to the maintenance of peace and harmony between the two governments, whose common interests recommend that each should treat the other with the deference due to great and powerful independent states.

Permanent recognition of the principle of national equality was given by the provision (Article IV) for official intercourse between officials of the two countries of corresponding rank on a basis of equality.

In the Treaty of Wanghia are incorporated the principles which had been taking shape in the minds of Americans, official and nonofficial, for two generations and which were to become more and more definite in the course of the nineteenth and twentieth centuries: national equality, the determination of Americans to be treated as the equals of any people on earth; with equality must come also most-favored-nation treatment, political as well as commercial.

But there was another side to the question: if the westerners in the East had rights, they had obligations also. Washington looked with disapproval upon seizure of territory or other attacks upon the independence of China (and later of Japan and Korea). It became American policy to support Asiatic nations in their struggles to maintain their independence; along with this developed a tendency to hold the governments of these lands responsible for carrying on administrative duties with relation to other nations. Accordingly while opium was specifically declared in the Cushing treaty to be contraband and its importation into China by Americans penalized by confiscation of vessel and cargo, the enforcement of this provision was left to China. *Prima facie* the policy appeared worthy of praise; but China's inability to enforce its own sovereign desires was demonstrated by the

events of the next few years, and the unsuitability of the American policy to Chinese conditions became evident.

Americans might have enjoyed—at least theoretically—national equality, most-favored-nation treatment, and the rights of extraterritoriality without a treaty; but they would not have had an opportunity to put into play their slowly forming policy of encouraging the Chinese to maintain their independence, nor would they have been able to find a complete equivalent for a military and naval base such as Hong-kong, which had been ceded to Great Britain by the Treaty of Nanking in 1842. The United States wanted no territory, but most-favored-nation treatment called for an equivalent; this was in part gained by the definite provisions for most-favored-nation treatment and extraterritoriality in the Cushing treaty, but especially in the incorporation of provisions for trade along the China coast from one treaty port to another, out of which largely grew the foreign coastwise trade against which the Chinese have in recent years begun to protest.

In the negotiation Cushing called upon two distinguished American missionaries, Dr. Peter Parker and the Rev. E. C. Bridgman, to serve as interpreters. This fact explains the insertion of a provision (Article XVIII), declaring it

> lawful for officers or citizens of the United States to employ scholars and people of any part of China, without distinction of persons, to teach any of the languages of the Empire, and to assist in literary labours, and the persons so employed shall not for that cause be subject to any injury on the part either of the Government or of individuals; and it shall in like manner be lawful for citizens of the United States to purchase all manner of books in China.

Forcing a Wedge in Japan.

During the middle years of the nineteenth century, a determination was growing to enter into treaty relations with Japan and to force, if necessary, that mysterious country to accept its responsibilities as a member of the family of nations. One of the chief reasons for the interest of the United States in both Hawaii and Japan was a desire for protection of American whalers in the

northern Pacific and of Americans engaged in Pacific and Far Eastern trade from the dangers of shipwreck as well as of ill-treatment in case they were forced to land on the inhospitable shores of Japan, but it was also important to be able to obtain supplies, especially coal.

When Matthew Galbraith Perry, with four war vessels, appeared in the Bay of Yedo (Tokyo) on July 8, 1853, he intended to secure from Japan three concessions: protection of the persons and property of shipwrecked Americans; the opening of one or two ports to trade; the establishment of a coaling station. Experience of United States nationals during two generations throughout the area under discussion had convinced them, and at last their Government, that gentle speech and good wishes unaccompanied by a convincing show of force were of little use. Accordingly the Japanese were to be assured of the President's desire for the friendship of the Emperor but that "no friendship can long exist between them unless Japan should change her policy and cease to act towards the people of the United States as if they were her enemies." If peaceful arguments availed naught, Perry was to "change his tone" and inform the Japanese "in the most unequivocal terms" that the United States Government would insist upon humanitarian treatment for its citizens and that "if any acts of cruelty should hereafter be practiced . . . whether by the Government or the inhabitants of Japan, they will be severely chastised."[14]

Perry was no less determined than Cushing to insist upon the full equality of his country with that of any in the world. He insisted upon the acceptance in correct manner of President Fillmore's letter; having announced his plan to return, with augmented squadron, the following year to receive an answer, he sailed to the Liuchiu Islands to arrange for coal for his ships. Thence he dispatched one of his commanders to take possession of part of the Bonin Islands, five hundred miles south of the main Japanese island. To the Bonins the United States laid vague claim until 1873.

[14] Dennett, *op. cit.*, pp. 263–264.

Maintenance of Chinese Unity.

In China contemporaneously another American Commissioner, Humphrey Marshall, was pursuing a milder policy, a logical extension of that enunciated in treaty form by Cushing. Marshall and Perry differed in policy and method but were one in suspicion of Great Britain and in desire to block its expansion. In the period 1851–65 when China was ravaged by the T'aip'ing and other rebellions and the imperial house and the unity of China were seriously threatened, the position of the western Powers with reference to China became crucial. Marshall feared the disintegration of Chinese unity and, in particular, the establishment of British and Russian protectorates in south and north China respectively. While anxious to avail himself of every opportunity which might be presented for opening China to increased intercourse, and adhering to the Washington policy of avoiding intervention in China's domestic affairs, he felt profoundly the need of a program which should bolster China against its own weakness and European encroachment, that is, maintenance of the doctrines of the most-favored-nation and the open door. The policy was not primarily altruistic even though it was for the best interests of China; the absorption by European Powers of the units of a disintegrated China would exclude Americans from Chinese markets. The recognition of this possibility is shown by Secretary Marcy's instructions to Commissioner Marshall's successor, Robert M. McLane, that in the event of the disruption of China he should enter into treaty relations with all the resulting units.

First Treaties with Japan.

In his attempts to aid the Manchu government against its T'aip'ing enemies, Marshall requested the aid of Commodore Perry and his squadron; this Perry refused, nor would he act on the suggestion of the Russian Admiral, Count Putiatin, that they should evolve a policy of coöperation. Perry spent the winter of 1853 at Hong-kong and Macao and reappeared in Yedo Bay in mid-February of the following year. He knew of Russia's plans to enter into treaty relations with Japan and he

believed a French squadron would soon appear. His intention of making the first treaty necessitated haste. On March 31, a treaty between Japan and the United States was signed at Kanagawa. For more than two hundred years Japan had kept its doors closed, maintaining only a tiny window at Deshima in Nagasaki Harbor for trade with a few Dutch and Chinese. Under the pressure of potential force it now agreed to swing open its doors again. The treaty provided for trade at Shimoda and Hakadate, neither of which had a favorable location; an agent or consul might be stationed at Shimoda after the passage of eighteen months, but at neither could Americans permanently reside; no arrangements for coal were made, and the rules for trade were rigid. The most-favored-nation clause was included, but no provision for extraterritoriality was made. Perry's treaty was narrower in scope than Cushing's treaty with China of a decade previous, but this was due to foresight; his ubiquitous Pacific policy would require time, and others might at leisure fill in the gaps left in his treaty.

The gaps were filled in by the brilliant work of Townsend Harris, first consul general and, later, first United States minister to Japan. In 1857 he negotiated a convention and in 1858 a commercial treaty which until 1894 remained the key treaty with Japan. In the former was a provision for the enjoyment by American citizens of extraterritorial rights which had been stipulated for by the Russians and Dutch in their respective treaties of 1855 and 1856. Arrangements were made for the opening of more ports and for permanent residence therein with the right to lease land and erect buildings, and for a conventional tariff.

The years following the signing of the treaties were full of strain for Minister Harris: the Japanese were in the midst of a domestic revolution and among them were groups violently antiforeign, bent on expelling all westerners and doing away with the treaties. It was more than possible that the European Powers might resort to war in defense of their rights and that partition of Japan might result. Following a series of murders of westerners, including the interpreter of the United States

legation, the English, French, Dutch, and Russian representatives in Yedo withdrew early in 1861 to Yokohama, but Harris refused to accompany them. As Cushing and Marshall in China were working for the integrity of China and the holding of that country to its obligations as a sovereign state, so Harris was bent on giving every moral aid possible to Japan in its struggle to save itself; he too worked to hold the Japanese Government to a performance of its international obligations.

With the retirement of Harris and the waging of the Civil War in the United States the leadership of the western diplomats passed to Great Britain. Robert H. Pruyn, Harris' successor, was instructed by Secretary of State Seward

> to preserve friendly and intimate relations with the representatives of other Western powers in Japan. You will seek no exclusive advantages, and will consult freely with them upon all subjects, insomuch as it is especially necessary, at this time, that the prestige of Western civilization be maintained in Yedo as completely as possible.[15]

The United States Minister accordingly joined the representatives of Great Britain, France, and the Netherlands in signing a protocol on May 30, 1864, stating their decision to act in concert upon their treaty rights. In August the Americans participated in the Allied attack on the Choshu feudatory which had for its objects the opening of the Straits of Shimonoseki and the vindication of foreign treaty rights against attempts to ignore or abolish them. President Lincoln and Secretary Seward approved American participation in this move to coöperate with the European Powers. On June 25, 1866, the representatives of the United States, Great Britain, France, and the Netherlands signed a joint tariff convention with Japan by which the revision of duties was made dependent upon the approval of any one or all the treaty Powers. There was no parallel in China to this instance of American coöperation, and from it later administrations slowly withdrew.

[15] *Diplomatic Correspondence,* 1862, Part II, p. 818.

Treaties with China.

United States policy and actions, and those of its representatives, were less clear-cut in China during these years than in Japan. While the Peking government was faced by the T'aip'ing rebellion and other serious domestic problems the matter of treaty revision came up; the American, French, and British envoys were ordered by their respective governments to coöperate in raising this question, but they were not to bring about a war.

Dr. Peter Parker became United States Commissioner to China in 1855. Convinced by experience with Chinese pride, evasion, and procrastination, and by the failure of a coöperative effort, that force alone would bring the Manchu emperor to consent to revision, Parker in December, 1856, proposed to Secretary Marcy that France, England, and the United States coöperate in seizing positions in Korea, the Chusan Archipelago, and Formosa, which should be held until China should meet the wishes of the coöperating Powers. To this Secretary Marcy replied that there was no warrant for the form of coöperation suggested, and that while the United States naval forces might be augmented to protect the persons and property of American citizens in China, they would not be used for "aggressive purposes." In February and March, 1857, Parker advocated the seizure of Formosa in reprisal for Peking's sins of omission and commission; no reply was vouchsafed.

In May, 1857, William B. Reed succeeded Parker as United States representative in China, receiving the title of Envoy Extraordinary and Minister Plenipotentiary. His instructions specifically warned him against a policy of "territorial aggrandizement or the acquisition of political power"; he was instructed to make it clear that the objects of the United States in China were trade "under suitable guarantees for its protection." Mr. Reed's experiences and observations in China quickly changed his point of view from that of the cool detachment characteristic of the State Department, and he wrote to Secretary Cass that the "powers of Western civilization must insist on what they know to be their rights, and give up the dream of dealing with China as

a power to which any ordinary rules apply." In response to his later request for authority to coerce Peking, he was informed that although cause existed there would be no resort to hostilities. Forbidden to join with England and France in coercive measures, he was free to coöperate diplomatically, and after the fall of Canton to the allied forces early in 1858, he joined the representatives of England, France, and Russia in notes to Peking. A few months later he attempted to enter upon independent negotiations but was disappointed. The representatives of the four Powers pushed on to Tientsin where, during the month of June, 1858, they signed treaties with China, the American including the most-favored-nation clause. The English were determined that their representative should be accorded the right of residence in Peking and be treated as the representative of a Power equal in rank with China. On this point Reed stipulated that the American representative should have the right to go thither on particular business (but not on "trivial occasions") and while there he was to be treated as an equal; if the right of residence in the capital should be accorded the representative of any Power it should at once be extended to the United States. Toleration of Christianity was also provided. Opium was not mentioned, but owing largely to the stand taken by Reed and Lord Elgin, British ambassador extraordinary, the opium trade was shortly afterward legalized without objection by either the United States Government or people.

Burlingame Mission.

By July, 1862, when Anson Burlingame, President Lincoln's choice as American Minister to China, arrived in Peking, he found the English, French, and Russian envoys established in their legations, the right of treaty power representatives to residence there having been conceded as a result of the war of 1860. Burlingame, largely by virtue of a vigorous and magnetic personality, quickly became the outstanding western diplomat in the Chinese capital. He received a free hand from Secretary Seward who merely urged him to "consult and coöperate with the British and French ministers, unless in special cases there

should be satisfactory reasons for separating from them." This advice was not new, but the opportunity for acting upon it for peaceful objects and the welfare of China was greater than hitherto. Burlingame was, moreover, a practical altruist as none of his predecessors had been. After consulting at length with his diplomatic colleagues in Peking the United States Minister defined their policy as follows:

> . . . while we claim our treaty right to buy and sell, and hire, in the treaty ports, subject, in respect to our rights of property and person, to the jurisdiction of our own governments, we will not ask for, nor take concessions of, territory in the treaty ports, or in any way interfere with the jurisdiction of the Chinese Government over its own people, nor ever menace the territorial integrity of the Chinese Empire. That we will not take part in the internal struggles in China, beyond what is necessary to maintain our treaty rights. That the latter we will unitedly sustain against all who may violate them. . . .[16]

Both Burlingame and Seward realized that so idealistic a policy could be maintained only so long as its supporters remained in the Chinese capital, unless the great Powers would unanimously support it from their home offices. With the hope of effecting this, Burlingame resigned his post in November, 1867, to accept an appointment as head of a mission to the Powers. On the arrival of this mission in Washington, Secretary Seward drafted eight articles to supplement the Treaty of Tientsin which are known as the Burlingame Treaty of July 28, 1868.[17] These articles make clear United States policy toward China at that period and long after. Article I provided for the territorial integrity of China by recognizing its dominion over "certain tracts of land" or "certain waters" to which foreigners had been granted access for residence and trade. China's "right of jurisdiction over persons and property" in any area which had been or might be granted to the United States for purposes of residence or trade was also provided, a limitation upon extreme pretensions of extraterritorial rights in concessions

[16] *Diplomatic Correspondence*, 1868, Part II, p. 939.
[17] *Treaties, etc.* (see footnote 11), I, 525.

and international settlements. Inland trade and navigation were reserved to China by Article II. Appointment of Chinese consuls to the United States who should be treated as well as British and Russian consuls was arranged by Article III. Freedom of conscience for American citizens in China and for Chinese Christians in both China and the United States was promised by Article IV. Free (but not contract) immigration into the United States was provided in Article V. Most-favored-nation treatment for Americans in China and Chinese in the United States was guaranteed in Article VI, "but nothing therein contained shall be held to confer naturalization upon citizens of the United States in China nor upon the subjects of China in the United States." Reciprocal educational rights were agreed to in Article VII: "The citizens of the United States may freely establish and maintain schools within the Empire of China at those places where foreigners are by treaty permitted to reside. . . ."

By Article VIII the United States Government stated its determination not to intervene "in the domestic administration of China in regard to the construction of railroads, telegraphs, or other material internal improvements"; should China, however, request the services of engineers at any time the United States agreed to designate them. The main object of the Burlingame mission in the eyes of those who dispatched it was to persuade the Powers not to bring pressure upon China to modernize the country rapidly. As far as the United States was concerned this object was attained in Article VIII, and was considered by the Chinese and Manchus of most value. The way was also further prepared for the sending of foreign advisers to aid the Chinese Government.

The immediate effect of the Burlingame mission and treaty was to weaken, if not to sentimentalize, American policy in China. Burlingame's successor as United States Minister to China, J. Ross Browne, felt that the ground had been cut from under his feet. Of the school of thought of Caleb Cushing, he did not advocate the exploitation of China but neither did he believe in coddling it; he believed that for its own good, as well as for America's, China must be held strictly accountable in respect of

treaties. Browne's criticisms of his Government's policy resulted in his recall in 1869. His successor, F. F. Low, profited as much by Browne's policy as Browne had suffered from Burlingame's. President Grant's Secretary of State, Hamilton Fish, in instructing Low, wrote in December, 1869:

> You will make clear to the government to which you are accredited the settled purpose of the President to observe with fidelity all the treaty obligations of the United States and to respect the prejudices and traditions of the people of China when they do not interfere with rights which have been acquired to the United States by treaty. On the other hand you will not fail to make it distinctly understood that he will claim the full performance, by the Chinese Government, of all the promises and obligations which it has assumed by treaties or conventions with the United States. On this point, and in the maintenance of our existing rights to their full extent, you will be always firm and decisive.[18]

Alaska.

Under Presidents Lincoln and Johnson, William H. Seward was Secretary of State. No earlier occupant of this office had had the prophetic outlook over the Pacific and Far Eastern area which characterized Seward. As a member of the United States Senate he had declared that "the Pacific Ocean, its shores, its islands, and the vast region beyond will become the chief theatre of events in the world's great hereafter." His *régime* was marked not only by a foresight of the significance of the Pacific area and by a strengthening of American interests in the Far East but by a notable advance in the North Pacific area. His imagination conceived and his vigorous temperament planned the admission of California to the Union, the building of a transcontinental railroad, the inauguration of a line of steamers from San Francisco to Japan and China *via* Honolulu, the policy of coöperation with the western Powers in dealing with Japan, Korea, and China along with the development of commercial opportunities in eastern Asia; to such largeness of scope his successors could make no substantial additions. The expansive tendency in the Pacific which

[18] *For. Rel.*, 1870–71, p. 303.

culminated in the taking over of the Philippines in 1898 was inaugurated by Seward in the purchase of Alaska.

An attempt on the part of Russia in 1821 to exclude non-Russians from the Bering Sea and from its North American possessions, and a later demand that Russia should control all the Pacific north of the fifty-first parallel had resulted in a treaty between the United States and Russia in 1824 limiting Russia's pretensions and recognizing the North Pacific as part of the high seas, the United States agreeing not to colonize north of 54° 40′. Between 1820 and 1867 Alaska became increasingly an economic liability to Russia with a political and military risk of its loss by seizure; Russia feared, moreover, the loss of American friendship which was more valuable than Alaska. To the United States the acquisition of Alaska and the Aleutian Archipelago would give a strategic position in the North Pacific which it had thitherto conspicuously lacked; it would also bring the country into greater proximity with eastern Asia. An informal offer of $5,000,000 in 1858 was declined by Russia as too small. On March 30, 1867, Secretary Seward was able to negotiate a treaty with Baron Stoeckl, the Russian Minister at Washington, for the purchase of Alaska and the Aleutians for $7,200,000. The treaty was ratified by the Senate on April 9, and the ceremony of transfer took place on October 18 at Sitka.

Treaty Revision.

During the first period of treaty-making between Japan and the western Powers, 1854–62, a policy of coöperation had been carried out under the leadership of Townsend Harris. With the latter's retirement and during the years 1862–73, the coöperative policy was continued in general under the somewhat arbitrary leadership of the English diplomats in Tokyo, Sir Rutherford Alcock and Sir Harry Parkes. The United States Government had little influence, nor did the coöperative policy work for the welfare of Japan. In 1873 John A. Bingham reached Tokyo to serve as United States minister, and at once sought to regain for his country the position it had held when Townsend Harris was minister. Thoroughly disapproving of the coöperative policy, he

decided, to the irritation and disgust of his German and British colleagues, to aid Japan to revise its treaties with the Powers. On July 25, 1878, Japan signed a treaty with the United States at Washington, by which the coöperative policy was partially abrogated. This treaty was, in part, the model for the treaty of 1928 with China, the two situations offering a number of parallels. The United States recognized the exclusive right of Japan to control its coasting trade and its tariff; in return, Japan was to open two additional ports, and export duties were to be abolished—concessions which were not to be granted to another Power unless it should grant to Japan what the United States had granted—but the treaty was not to go into effect unless Japan should sign similar treaties with other nations. Under the leadership of Great Britain and Germany the other European governments refused to sign similar treaties and thus prevented that of 1878 from coming into effect. American prestige in Tokyo nevertheless rose apace, and Japan was encouraged to press on to treaty revision; President Arthur's message to Congress of December, 1883, declared the readiness of his Government

> to consider the request of Japan to determine its own tariff duties, to provide such proper judicial tribunals as may commend themselves to the Western powers for the trial of causes to which foreigners are parties and to assimilate the terms and duration of its treaties to those of other civilized states.[19]

Less than three years later, April 30, 1886, on the eve of a treaty revision conference, President Cleveland approved a treaty of extradition between the two countries "because," as he explained a few weeks later, "of the support which its conclusion would give to Japan in her efforts towards judicial autonomy and complete sovereignty."[20]

By the end of 1883, Great Britain began to veer toward support of Japan, and steadily continued in this support during the next decade. The aid given by the United States Minister between 1873 and 1885 in breaking the coercive policy of the

[19] James D. Richardson, *Messages and Papers of the Presidents*, VIII, 175.
[20] *Ibid.*, p. 402.

Powers and in pushing Japan along the road to treaty revision and full membership in the family of nations was no longer needed, and American influence at Tokyo again waned; the Anglo-Japanese treaty of July, 1894, became the master-treaty in Japan's rise to equality with the western Powers.[21] The United States, which had been the trail-blazer, became the follower by signing with Japan a treaty in November, 1894, similar to that signed in July by England. Provision was made for the ending, after five years, of consular jurisdiction in Japan. The British treaty provided for the continuance of a conventional tariff on some sixty commodities and for the continued participation of British ships in the coasting trade of Japan. The American treaty provided for no tariff concessions, although as long as the European Powers demanded them the United States was free to profit thereby on the basis of the most-favored-nation clause. By 1899, however, the extraterritoriality problem was solved and twelve years later that of tariff autonomy.

Korea.

The interest of the United States in Korea was aroused in 1866 by the wrecking of Americans on the Korean coast, the attempts of American nationals to enter into trade relations with Koreans, and the plans of France to punish attacks by Koreans on French priests, the execution of nine of whom in March, 1866, was followed by an announcement of the French *Chargé d'Affaires* in Peking that his Government intended to annex the country. In July the crew of the American schooner, *General Sherman*, which had trade for its object, got into trouble with Korean subjects; eight of the crew were killed, the rest were made prisoners, and the schooner itself was destroyed. Attempts made in 1867 and 1868 to learn exactly what had happened to the *General Sherman* and its crew failed. Plans to send the American Consul General at Shanghai to Korea in the summer of 1868 to negotiate a treaty also failed, but, in 1871 the United States Minister at Peking, accompanied by Admiral John

[21] Seiji Hishida, *The International Position of Japan as a Great Power* (New York, 1905), pp. 137 ff.

Rodgers and a squadron of five steamships, reached Kianghwa. While awaiting the appointment by the Korean Government of officials sufficiently high in rank to meet the United States Minister, surveys were begun of the coast. As the surveying ships were fired upon, the forts on Kianghwa Island were seized and destroyed, and more than two hundred and fifty Korean soldiers killed. As the court still refused to come to terms the Americans sailed away in July, having failed to open the country to foreign intercourse by either peaceful or warlike measures.

After attempting unsuccessfully in 1880 to open negotiations with Korea through Japanese channels, American officials made the next attempt by way of China. With the aid of Li Hung Chang, Commodore Shufeldt negotiated a treaty with Korea in 1882. Six years earlier Japan had signed a treaty with Korea which recognized its full sovereignty, although China claimed it as a vassal state and Korea acknowledged the relationship. Inasmuch as no dependent-state clause was incorporated in the American treaty of 1882, Japan's diplomacy was strengthened and a step taken toward the disruption of the long-standing relation between China and Korea; opening eastern lands to its trade, the United States had unwittingly contributed to the course of events which led ultimately to the Sino-Japanese and Russo-Japanese Wars, and the annexation of Korea by Japan in 1910.

Japanese Expansion.

Years before the completion of the movement to wreck the government of the Tokugawa Shogun and restore the emperor to power, Japan entered upon a policy of expansion and consolidation which was to affect its relations with the United States, and the position of the United States in the area under consideration. As early as 1861 Japan asserted its claim to that part of the Bonin Islands seized by order of Commodore Perry in 1853; to this the United States Government registered no objection. In 1871 the claims of the province of Satsuma to the Liuchiu Islands were taken over by the recently established imperial government of Japan, and in the following year this archipelago was incor-

porated into the empire. For hundreds of years these islands had been paying tribute jointly to China and Japan, and the former was not a little unwilling to recognize the new state of affairs. The matter was complicated in 1874 by the decision of Japan to punish certain of the tribes of Formosa for having eaten some shipwrecked Liuchiuans cast upon the island in December, 1871, China having refused to accept responsibility for the savages' appetites. Japan, following the custom of international law, contended that China thereby forfeited the right of exercising sovereignty over Formosa. Prince Kung's reply to the Japanese Ministers, May 14, 1874, was characteristic of the Chinese attitude:

> Formosa is an island lying far off amidst the sea and we have never restrained the savages living there by any legislation, nor have we established any government over them, following in this a maxim mentioned in the *Rei Ri:* "Do not change the usages of a people, but allow them to keep their good ones." But the territories inhabited by these savages are truly within the jurisdiction of China.[22]

The Japanese were encouraged and advised by Le Gendre, United States Consul at Amoy, to consider a permanent hold over the eastern part of Formosa, Le Gendre himself and two of his countrymen, with an American steamer, taking service with Japan. When it became clear that China disapproved of Japan's punitive expedition, the United States Government forbade its nationals to participate. The quarrel over the Liuchiu Islands dragged on until 1881 when China formally recognized Japanese suzerainty over the group. The Formosan question was settled in 1895 in favor of Japan by the Treaty of Shimonoseki.

Korean Independence.

Having recognized Korean independence, the Washington government in the following year established a legation in Seoul, and advocating equal treatment for all aliens, took the stand that

[22] China Despatches, XXXVI, No. 55, August 22, 1874, Williams to Fish; quoted by Tyler Dennett, *The American Journal of International Law,* XVI, No. 1, January, 1922, p. 10.

the enjoyment by the Chinese of certain exclusive privileges in Korea could not be tolerated. Meanwhile relations between the Korean court and the American diplomatic representatives were cordial; American missionary work was opening; a Korean embassy to the United States in 1883 had been entertained and had returned to Seoul with favorable reports; and the king requested that American school-teachers and military instructors be sent to aid in modernizing the country. The request for the latter type of instructor had been approved by both China and Japan, but years passed before the component parts of the United States Government could bring themselves to act, and the arrival of three army officers in 1888 was too late for effect. Despite Chinese opposition, which drew a rebuke from Secretary of State Bayard, a Korean mission reached Washington in 1888 and an independent legation was established there. A few months later, nevertheless, Chinese influence was strong enough to obtain the recall of Ensign George C. Foulk, the American *Chargé* at Seoul, on the charge that he had been encouraging King Yi Hyeung in independence of action.[23]

During these years the United States displayed little interest in Far Eastern affairs as distinct from the Asiatic immigration question. When Korean inability to play the rôle of a sovereign nation became evident and the conflict of Chinese and Japanese policies with reference to Korea led to war in 1894, the United States Government limited itself to a tender of good offices. These were declined, and after war had broken out Secretary of State Gresham refused to join the European Powers in intervention, declared that American policy was not endangered, and stated that the attitude of the United States toward the belligerents was "that of an impartial and friendly neutral desiring the welfare of both."[24] Neutrality, without shadow of intervention, was the policy which the United States Government continued to pursue to the end. During this same period anti-missionary outbreaks took place in China against which the United States Government felt obliged to protest. In Japan, on the other hand, there was no such problem, the Japanese Government having come to the

[23] Dennett, *Americans in Eastern Asia*, p. 484.

[24] Quoted in *ibid.*, p. 499.

conclusion that anti-Christian movements were not in keeping with its aim to obtain a revision of the treaties and a place in the family of nations.

When, in 1895, the United States Minister to Korea failed to keep to the path of rigid neutrality, he was rebuked by Secretary Gresham. From the time of the signing of the Shufeldt Treaty in 1882 the Korean authorities, ignorant of the international law and customs of the West, interpreted the offer of good offices as more than a promise to mediate when the parties to a dispute approve, and tended to think of the United States as practically the ally and protector of Korea; but Secretary of State Sherman instructed the newly appointed Minister to Korea that there was

> reason to believe that rival purposes and interests in the east may find in Korea a convenient ground of contention, and it behooves the United States and their representatives, as absolutely neutral parties, to say or do nothing that can in any way be construed as taking sides with or against any of the interested powers. And such particularly would not only be in itself improper but might have the undesirable and unfortunate effect of leading the Koreans themselves to regard the United States as their natural and only ally for any and all such purposes of domestic policy as Korea's rulers may adopt.[25]

Open Door Policy.

Between 1898 and 1900 the number and size of foreign settlements and concessions in China were considerably increased by the activities of the Russians, Germans, English, Japanese, Belgians, and French, American nationals playing a part in the expansion of the International Settlement of Shanghai. One can understand the lament of Chinese statesmen "that the whole world is China's enemy."[26]

In March, 1898, China leased to Germany, provisionally for ninety-nine years, the land at the entrance to Kiaochau Bay. In the same month and in the following May, China leased Port Arthur and Dalny with their adjacent waters and islands to Russia for twenty-five years with the possibility of extension.

[25] Korea Instr., I, November 19, 1897. Quoted by Dennett, *op. cit.*, p. 506.
[26] Paul H. Clyde, *International Rivalries in Manchuria, 1689–1922,* p. 229.

In April the French raised their flag over Kwangchow Wan which was to serve as a naval station; China ratified the convention for this lease on January 5, 1900.[27] England was heartily opposed to the partition of China; its interest, like that of the United States, lay in an intact country open to the trade of all nations. Nevertheless it felt the need for a balance to Russia in the Liaotung Peninsula, and, on July 1, signed a convention by which it leased a strip of land ten miles wide around the Bay of Weihaiwei and the island within the bay "for so long a period as Port Arthur shall remain in the occupation of Russia," and as an offset to the French lease of Kwangchow Wan negotiated a convention by which its hold on Kowloon Peninsula opposite Hong-kong was greatly extended. In 1899 Italy made an unsuccessful attempt to obtain a naval base on Sanmen Bay in Chekiang Province. In addition, during the years 1897–98 China was required by France, England, and Japan to issue declarations of nonalienation of territory which strengthened their position.

The scramble for concessions in China which bade fair to end in its partition could scarcely fail to arouse the Washington government to action. During the generation which had passed since Anson Burlingame's ministry in Peking the policy of cooperation fostered by him had died of inanition. At the close of the century the United States had to decide between playing a lone hand in China, with the probability of being pushed out of the game, or making at least a feint toward coöperation. The latter was chosen, and Secretary Hay's friend and adviser, W. W. Rockhill, was mainly responsible for the reënunciation of American policy. On August 28, 1899, Rockhill incorporated specific recommendations in a memorandum to Hay which the Secretary embodied in his circular note to the Powers on September 6.[28]

[27] Cheng Sih-gung, in *Modern China*, pp. 158–159, makes it appear that the Russian, French, and German demands on Japan for the retrocession of the Liaotung Peninsula were instigated by Li Hung Chang.

[28] For the note and a discussion of it, see *Survey*, 1928, p. 80; for the replies of the powers, see W. W. Willoughby, *Foreign Rights and Interests in China*, I, 70 ff.

The so-called Hay policy of the open door was not new; it was a restatement with specific application of the most-favored-nation policy which had motivated both American residents in China and their home government from the beginning. Nor was it primarily Secretary Hay's policy; President McKinley had used the term "open door" a year before the dispatch of the notes by the Secretary of State. Nor was it peculiarly American; Lord Palmerston, in his instructions to the two Elliots dated February 20, 1840, cautioned them to

> bear in mind that Her Majesty's Government do not desire to obtain for British Subjects any exclusive privileges of Trade, which should not be equally extended to the Subjects of every other Power.[29]

Lord Charles Beresford, a representative of the Associated Chambers of Commerce of Great Britain, on tour through China and Japan, used the term in 1898 in a speech in Shanghai and declared it to be the policy of the English cabinet. Later in Japan he advocated a "commercial alliance or understanding based on the principle of the open door"; moreover, he proposed an alliance of Great Britain, Japan, the United States, and Germany "with the definite understanding on the integrity of China, so that the door can be kept open."[30] During Hay's ambassadorship in London, Lord Salisbury, Premier and Foreign Secretary, had suggested the desirability of an Anglo-German–American alliance having for one of its objects the maintenance of the integrity of China. While personally approving the idea, the American Ambassador realized that it was impossible, since in international relations the United States Government is slow to assume the kind of responsibility which an agreement to maintain the integrity of China would imply.

The work of Rockhill and Hay undoubtedly slowed continental European action in China; this was beneficial to the United States no less than to China, otherwise Washington would not have exerted itself as it did. Although the terms

[29] Quoted by H. B. Morse, *International Relations of the Chinese Empire,* I, Appendix B, p. 630.

[30] *Japan Times,* January 22, 1899; cited by Dennett, *op. cit.,* note, p. 641.

"sphere" and "sphere of interest" were placed in quotations, their existence was clearly recognized by the United States without protest, nor was China consulted or asked to participate in keeping its doors open. Even after the Boxer outbreak the United States Government in 1900 asked Japan's approval of its lease of a coaling station on the Fukien coast. Since this province was within Japan's "sphere of interest," the United States Government dropped the matter without consulting China when Japan disapproved.[31]

The Boxer Rebellion.

At the time of Hay's notes, zealous patriots known as Boxers[32] attempted to free China from alien influence. In May, 1900, numerous hostile acts were committed by them against foreigners; on the last day of the month armed guards for the legations were taken up from Tientsin. So threatening became the situation in Peking that on June 9 the British and American ministers telegraphed to the admirals of their respective countries off Taku. The British Admiral, Seymour, headed an international force of 2,156, including 112 Americans, for the relief of the legations; the force failed to reach Peking and fell back on Tientsin. To keep in touch with the Seymour force, with Tientsin, and with Peking, the admirals decided they must control the Pei-ho River leading to Tientsin. They issued an ultimatum calling for the surrender of the Taku forts at the mouth of the Pei-ho by the early morning of June 17, and as the Chinese opened fire before the ultimatum expired, captured the forts. The American Admiral, Kempff, refused to coöperate in this enterprise on the ground that his country and China were not at war, and that such an act would unite China against the foreigners and

[31] E. T. Williams, *China Yesterday and Today,* 4th ed., p. 491.

[32] The term "Boxer" is a misnomer. "In the provinces there were in many places societies for self-protection against the activities of the robbers who made the country-side unsafe. These institutions called themselves I Ho T'uan (Union for the Protection of the Public Peace). This title was later changed to I Ho Ch'uan (The Fist for the Protection of the Public Peace). This expression was subsequently wrongly translated by the word *Boxer,* although there was no question of boxing in the whole affair." Richard Wilhelm, *The Soul of China* (1928), p. 26.

endanger many lives in the interior; he was upheld by President McKinley. Partly on account of the seizure of the forts and partly for other reasons the foreign envoys and all other foreigners were ordered, on June 19, to leave Peking within twenty-four hours; on the twentieth a declaration of war was ordered, the German Minister, Baron von Ketteler, was murdered, and firing on the legations began. From then until mid-August, when the fall of the capital was brought about by the concurrent attacks of the western armies and of Japan, the foreigners in Peking were in a state of siege.

American Policy Restated.

On July 2 the French Government proposed that the powers should agree upon the maintenance in China of the territorial *status quo*.[33] On the following day Secretary Hay dispatched a circular telegram to the American representatives in Berlin, Paris, London, Rome, St. Petersburg, Vienna, Brussels, Madrid, Tokyo, The Hague, and Lisbon in which he defined

the attitude of the United States as far as present circumstances permit this to be done. We adhere to the policy initiated by us in 1857 of peace with the Chinese nation, of furtherance of lawful commerce, and of protection of lives and property of our citizens. . . . If wrong be done to our citizens we propose to hold the responsible authors to the uttermost accountability.[34] We regard the condition at Peking as one of virtual anarchy, whereby power and responsibility are practically devolved upon the local provincial authorities. So long as they . . . protect foreign life and property, we regard them as representing the Chinese people, with whom we seek to remain in peace and friendship. The purpose of the President is, as it has been heretofore, to act concurrently with the other powers; first, in opening up communication with Peking and rescuing the

[33] Williams, *op. cit.*, p. 501.

[34] Compare Secretary Hay's statement with that of Lord Palmerston of January 9, 1847:

"The Chinese must learn and be convinced that if they attack our people and our factories, they will be shot; and that if they ill-treat innocent Englishmen . . . they will be punished. . . . Depend upon it, that the best way of keeping any men quiet is to let them see that you are able and determined to repel force by force; and the Chinese are not in the least different, in this respect, from the rest of mankind."

American officials, missionaries, and other Americans who are in danger; secondly, in affording all possible protection everywhere in China to American life and property; thirdly, in guarding and protecting all legitimate American interests; and fourthly, in aiding to prevent a spread of the disorders to the other provinces of the Empire and a recurrence of such disasters. It is of course too early to forecast the means of attaining this last result; but the policy of the Government of the United States is to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed to friendly powers by treaty and international law, and safeguard for the world the principle of equal and impartial trade with all parts of the Chinese Empire.[35]

Secretary Hay's note summarizes United States policy with reference to China in 1930 as completely as it did thirty years ago. A fuller interpretation, if not additional meaning, is given to the open door policy by the reference to "Chinese territorial and administrative entity" and to "the principle of equal and impartial trade with *all parts* of the Chinese Empire." The distinction between a people and its rulers has appeared more than once in American diplomacy. The use of the word "concurrently" instead of, for example, "coöperatively" is also noteworthy.

Foreign Encroachment.

In spite of their expressions of approval of this policy several of the Powers seized the opportunity for aggressive action presented during the following months. Most conspicuous were the Russians in South Manchuria, and at Tientsin where they seized a concession of one thousand acres. This was followed by demands by Belgium, France, Italy, Japan, and Austria for new concessions or enlargement of old ones; the next year similar demands were made by British and Germans. Since 1861 the United States had claimed a concession at Tientsin over which it had never assumed control; lest they be shut out from trade there the Americans now considered assuming control of the area earlier allotted to them, but finally decided that it should be

[35] Appendix, *For. Rel.*, 1901, "Affairs in China," p. 12.

added to the British concession subject to the right of recall at any time. As if to show the strength of spirit which so often accompanies weakness of the flesh, England and Germany signed a voluntary limitation agreement[36] on October 16, 1900, which England thought was directed against Russian aggressions but which was later found to have for its main object the restriction of the English "sphere of influence" to and in the Yangtze Valley. The possibility of a repetition in China of the sort of delimitation of spheres of influence which Russia and Great Britain had agreed to in Persia was not remote. The Anglo-German agreement reiterated the principle of the open door, and declared that the contracting parties would

> not make use of the present complication to obtain for themselves any territorial advantages in Chinese dominions and will direct their policy toward maintaining undiminished the territorial conditions of the Chinese Empire.

At this early period the possibilities of twisting the meaning of the principles of equal economic opportunity and of China's territorial and administrative integrity, and diplomatically preventing their application became evident.

Russia and Japan in Korea.

Among the factors which serve to explain Japan's acceptance of American annexation of the Hawaiian and Philippine Islands in 1898, not the least significant was its desire for American friendship and support in its aims and actions in Korea following the Sino-Japanese War. From the period of the signing of the Shufeldt Treaty in 1882 to the annexation by Japan in 1910, Korea was a shuttlecock of the Powers. Russia as well as Japan desired the approval of the United States, and the investment of American capital, but American capital was shy, and a contract for a railroad, which the Americans obtained with Russian aid, was carried out in coöperation with the Japanese. The latter suggested that American capital should be introduced into Korea under their guidance—a type of suggestion which, *mutatis mu-*

[36] *British and Foreign State Papers,* 1900–1901, XCIV, 897–898.

tandis, has in recent decades found favor in the Far East as a whole.

The aggressive actions of Russia in China, particularly in Manchuria, and in Korea contributed largely to the signing on January 30, 1902, of the Anglo-Japanese Alliance. In this the open door policy, and American Far Eastern policy in general, seemed to gain additional strength. The preamble explicitly stated the special interest of the contracting parties in

> maintaining the independence and territorial integrity of the Empire of China and the Empire of Corea, and in securing equal opportunities in those countries for the commerce and industry of all nations. . . .[37]

The purity of motive evinced was slightly adulterated by the reference in the first article to the "special interests" of both countries in China and the "peculiar degree" to which Japan was interested in Korea. The new alliance, as such alliances do, produced two immediate counter moves: the application to the Far East of the previously existent Dual Alliance of Russia and France, and the signing of a Russo-Chinese convention on April 8, 1902. By the latter, Russia recognized Chinese sovereignty over Manchuria, and agreed to withdraw its military forces within certain time limits; this it failed to do.

Manchuria.

Prior to the Russo-Japanese War, the United States was interested in Manchuria more than in Korea. In 1901–1902 considerable friction developed between the Americans and the Russians in the Manchurian open port of Newchwang which was controlled by the latter. To prevent Russia from gaining for itself a permanent position of exclusive privilege in Manchuria, the United States in 1903 asked China to open three new ports, Tatungkow, Mukden, and Harbin, to foreign trade. To block this Russia forced a new convention upon China in April, 1903, as precedent to any other move toward withdrawal from Manchuria. Among the "seven points" were the requirements that China must refuse to open new treaty ports in Manchuria,

[37] *British and Foreign State Papers,* 1901–1902, XCV, 83–84.

to allow foreign consuls to be stationed there, and to employ any foreigners save Russians in the North China service. The United States Government immediately protested to Peking against these demands, and reserved for later consideration the others made by Russia. Meanwhile Russia vigorously denied the existence of the "Convention of seven points," as Japan denied the existence of the Twenty-one Demands twelve years later. Into the exceptionally tortuous and obscure diplomacy regarding this matter there is no need to enter. Suffice it to say that one result was the throwing of the sympathy, and moral or more than moral support of President Roosevelt to the side of Japan when war broke out with Russia in 1904. Finally on July 11, 1903, Russia officially withdrew its opposition to the opening of new Manchurian ports (with the exception of Harbin) and the Chinese Government agreed to a treaty with the United States in which the opening of new ports in Manchuria would be provided for.

Notwithstanding the desire to "preserve Chinese territorial and administrative entity," expressed in Hay's note of July 3, 1900, the prime object of the State Department was to safeguard American interests rather than the territorial integrity of China. Writing to President Roosevelt on May 1, 1902, Hay remarked:

> We are not in any attitude of hostility toward Russia in Manchuria. On the contrary, we recognize her exceptional position in northern China. What we have been working for two years to accomplish, if assurances are to count for anything, is that, no matter what happens eventually in northern China and Manchuria, the United States shall not be placed in any worse position than while the country was under the unquestioned dominion of China.[38]

Japan, on the contrary, felt that its future was at stake. Met by Russian evasion, deceit, procrastination, even insolence on every occasion of attempting a solution of the difficulties with Russia in Korea and Manchuria, Japan struck on February 8, 1904, and declared war afterward, as it had done in the case of China ten years earlier.

[38] Tyler Dennett, *Roosevelt and the Russo-Japanese War,* pp. 135–136.

United States–Japanese Agreement.

In the war the United States, while officially neutral, was in reality, through President Roosevelt's work, a spiritual ally of Japan.[39] "The Russo-Japanese conflict was essentially a war, not for the integrity or independence of either Korea or China but for the *control* of both."[40] As early at least as January, 1905, President Roosevelt came to the conclusion, which he informally stated to Secretary Hay, that the Korean people were incapable of defending their independence and also that it was impossible for the United States to interfere in the course of events in that country. To this conclusion the governments of Europe had come, or were coming, as intimated in the renewed Anglo-Japanese Alliance of August, 1905. While favoring Japan, President Roosevelt recognized that it might cause trouble to American possessions in the Pacific and the Far East, and he feared that it might swing away from Anglo-American coöperation to an alliance with Russia. Welcome, therefore, was an assurance from Japan that it would not interfere with the Philippine Islands. On July 29, 1905, without the knowledge of the American Ambassador to Tokyo, Premier Count Katsura held a diplomatic conversation with the Secretary of War, Mr. Taft, who acted as the President's personal representative. The consequent "agreed memorandum" received the President's approval two days later. The last sentence of the first paragraph reads:

> Count Katsura confirmed in the strongest terms the correctness of his [Mr. Taft's] views on the point and positively stated that Japan does not harbour any aggressive designs whatever on the Philippines. . . .
>
> The Premier then suggested the desirability of a
>
> good understanding or an alliance in practice, if not in name . . . between these three nations [Great Britain, Japan, and the United States] in so far as respects the affairs in the Far East.

To this Mr. Taft replied that the consent of the Senate was necessary for even a "confidential informal agreement," but that

[39] See *Survey*, 1928, p. 33.

[40] Dennett, *op. cit.*, p. 143.

he felt sure that without any agreement at all the people of the United States was so fully in accord with the policy of Japan and Great Britain in the maintenance of peace in the Far East that whatever occasion arose appropriate action of the Government of the United States, in conjunction with Japan and Great Britain, for such a purpose could be counted on by them quite as confidently as if the United States were under treaty obligations to take [it].

The Premier then intimated his country's plan to assume control of Korean foreign affairs so that Japan might not be forced to enter "upon another foreign war." To which Mr. Taft, while disclaiming any "authority to give assurance," stated his approval of Japanese plans and his belief that President Roosevelt "would concur in his views in this regard. . . ." Mr. Tyler Dennett, who in 1924 made known to the world the existence of this agreement, comments:

> President Roosevelt believed that when Russia was defeated in the Far East Japan conferred a benefit upon American interests. The distinctive feature of Roosevelt's Far Eastern policy was that he did not ignore the implied obligation. He was prepared, in return, to help Japan—he was prepared to have the United States make some payment for the advantages which Americans enjoyed in Eastern Asia. It has been rare to find American statesmen who would follow President Roosevelt in this very honorable principle. Perhaps the most conspicuous characteristic of American policy in the Far East, viewed in the large, has been the desire to get something for nothing. Possibly in assenting to the agreed memorandum he displayed a willingness to pay too much. He really assented to something like a blank check, for he did not have the foresight to require a bill of particulars as to the measures which would be taken under the second Anglo-Japanese Alliance to maintain the peace of the Far East—measures which turned out to be inimical to American interests. However, the fact that the diplomacy was bungled does not affect the fact that the principle of statesmanship was sound.[41]

Treaty of Portsmouth.

The willingness of Russia and Japan to make peace led the President on April 20, 1905, to suggest the desirability of direct

[41] *Current History,* XXI, 21.

negotiations between the warring nations; at the same time he expressed his expectation that Japan would abide by the doctrine of the open door in Manchuria and return that area to China. To this Baron Komura, Japanese Foreign Minister, assented five days later. On May 31 Japan formally requested that President Roosevelt should "directly and of his own motion and initiative . . . invite the two belligerents to come together for the purpose of direct negotiations." As Japan was ready to support the President's peace efforts, and Russia was agreeable, identic notes were sent from Washington on June 8 in which the two Powers were urged to appoint plenipotentiaries for the consideration of peace terms. Both Governments agreed.

The resulting Conference at Portsmouth, New Hampshire, lasted from August 10 to September 5. Over the demands of the Japanese for indemnity and territorial compensation the Conference all but broke up in the period August 16–29. But Roosevelt was able to present such cogent reasons to the Czar, to the Kaiser, and to the Japanese plenipotentiaries that on August 29 an agreement was reached. The Japanese dropped their claim for indemnity and offered to restore the northern part of Saghalin to Russia; nevertheless, failure to maintain its pose of altruism throughout the negotiations and the disclosure of its ambitions in these demands, in addition to the developments in Korea and Manchuria during the next half decade, served to turn from Japan a considerable part of the sympathy and admiration which had been patent in the American attitude during the preceding generation. As foreshadowed in the discussion on July 29 between Premier Katsura and Mr. Taft, and by other developments as well, Japanese "paramount political, military, and economic interests" in Korea were recognized by Russia in the treaty. Both nations agreed to evacuate Manchuria which was to be administered exclusively by China; the Liaotung Peninsula, which was to be leased to Japan, was excepted. Chinese sovereignty and the open door were recognized. The railway from Port Arthur to Changchun was ceded to Japan; that north of Changchun was to continue under Russian control.

With the conclusion of the Komura Treaty on December 22,

1905, by which China accepted the provisions of the Portsmouth Treaty, Japan obtained freedom of action in Manchuria. It proceeded to attach to the open door in that area an automatic spring which would quietly and speedily close the door. In Korea on November 17, Japan had succeeded in negotiating a convention by which it took over full control of Korea's foreign relations and installed a Japanese resident-general who had oversight of Japanese resident officials, and by an English loan it was able to obtain control of the South Manchuria Railway, blocking the Straight-Harriman plan for American participation.

Japan was moreover able to forestall Chinese efforts to bring about an understanding with the United States. On May 25, 1908,

> Mr. Root informed [informs] Mr. Rockhill of the passage of the bill authorizing the President to modify the indemnity bond [Boxer] from $24,400,000 to $13,655,492.69 and interest at 4 per cent, and to remit the remainder of the indemnity as an act of friendship . . .[42]

The proceeds were to be devoted to educational purposes in China and the sending of Chinese students to America. Early in August, Tang Shao-yi, Governor of Fengtien, was sent to Washington to thank the United States Government. His visit had also the purposes of seeking to bring about a new understanding between China, Germany, and the United States, and of floating a $20,000,000 loan to establish a bank in Manchuria which should finance Manchurian mining, timber, agricultural, and railway developments. The latter project was the result of conferences between Governor Hsu Shih-ch'ang of Manchuria, Governor Tang, and Willard D. Straight, United States Consul General at Mukden, but it came into conflict with larger interests which must be briefly referred to.

United States Influence in the Pacific.

Contemporaneously with the manifestations of its interest and growing power in Pacific and Far Eastern areas between 1898 and 1905, the United States was making additionally clear its

[42] *For. Rel.*, 1908, p. 64.

position with reference to connecting the Pacific and Atlantic oceans by a canal.[43] With the completion of the Panama Canal United States naval strategy was revolutionized, being based on two fleets, one on the east coast, one on the west. With control of the Panama Canal and ownership of Hawaii there could be no doubt of American domination of the eastern Pacific, while the shortened and quickened means of communication between the two coasts of the United States made its position in the western and southern Pacific and the Far East much more important than hitherto.[44] After the opening of the Canal its position in the Pacific was potentially strengthened by the Bryan-Chamorro Treaty of 1916 relating to a canal route across Nicaragua.[45]

Relations with Japan.

Meanwhile, upon more than one occasion, relations between the United States and Japan had become strained. American bankers had aided Japan to finance its struggle with Russia, and the United States Government had looked with something more than complacency upon the defeat of Russia and observed without loss of equanimity the unfolding of Japan's policy in Korea. Yet on July 30, 1907, less than two years after the signing of the Portsmouth Treaty, Russia and Japan signed an open convention and a secret agreement: in the former the open door principle was again recognized; in the latter the two Powers agreed upon the line of division between their respective spheres of influence in Manchuria. It soon became evident that President Roosevelt's fear of coöperation between Japan and Russia for exploitation of the Chinese Empire was well founded. The two agreements were but links in a chain of treaties and alliances affecting eastern Asia which grew out of the Anglo-Japanese Alliance and the War of 1904–1905.[46] The first of these was the Japanese-American "agreed memorandum" of July 29, 1905. On

[43] The negotiations for a route and the construction of the Canal were described in the *Survey*, 1929, pp. 200 ff.

[44] For other advantages, see *ibid.*, 1929, pp. 281 ff.

[45] *Ibid.*, 1929.

[46] The Entente Cordiale between Great Britain and France had just preceded that war.

June 10, 1907, France and Japan signed an agreement at Paris: while agreeing to respect the independence and integrity of China, the signatories announced nevertheless their special interests in the maintenance of peace and order in the "regions of the Chinese Empire" bordering their own possessions; each was to support the other in maintaining security in those parts and their "territorial rights" on "the continent of Asia." Next in point of chronology came the Russo-Japanese agreements of July 30, 1907, to be followed on August 31 by the Anglo-Russian convention. The latter relieved the old tension between the British and Russian empires which had been largely responsible for the consummation of the Anglo-Japanese Alliance. The general effect of these agreements was the exclusion of Germany from participation in the domination of China which Japan, England, France, and Russia were to enjoy in defiance of the open door doctrine.[47]

The German Emperor and the Chinese Government viewed with misgiving the diplomatic trend in the Far East. Ignorant of the Japanese-American "agreed memorandum" of 1905, but aware of the increasing friction between the Americans and Japanese over the immigration of the latter into Hawaii and the Pacific Coast states, both Germany and China considered the possibility of a German-Chinese-American agreement or alliance which should serve as an offset to those of Great Britain, Russia, France, and Japan, and prevent the threatened partition of China.

Root-Takahira Notes.

When Governor Tang reached Washington on November 30, on the mission described above, he was shown the notes which Baron Takahira, Japanese Ambassador to the United States, had hastily exchanged with Secretary Root, and which were signed four hours later. "The independence and integrity of China and the principle of equal opportunity" therein were sought and the two Powers announced their wish "to encourage the free and

[47] Cf. H. B. Morse and H. F. MacNair, *Far Eastern International Relations*, II, 760–768.

peaceful development of their commerce on the Pacific Ocean." Without defining the term *status quo* they expressed their plan to maintain it "in the region above mentioned," i.e., the Pacific Ocean. Should either the *status quo* or the "principle of equal opportunity" be threatened the two Governments would decide upon the necessary measures. The notes, together with the deaths of the empress dowager, Tzu Hsi, and the emperor, Kwang Hsu, in the same month, rendered the Tang mission futile, caused the plan for a German-American-Chinese agreement[48] to collapse, strengthened Japan's position in Manchuria in consequence, and generally weakened American influence in the Far East. Evidence of this was not long delayed: in 1906 Russian officials of the Chinese Eastern Railway had intimated to American capitalists the possibility of the sale of that line; toward the end of 1908 inquiry was made as to the willingness of Japan to sell the South Manchuria Railway in the event of Russia's sale of the Chinese Eastern. To this Japan in January, 1909, returned a decided negative.

Investment of Foreign Capital.

The "agreed memorandum" of 1905 was a personal understanding between Japan and Mr. Roosevelt as occupant of the presidency. Although Mr. Taft had negotiated and signed the memorandum, yet when he became President he allowed his Secretary of State to take a strictly legal point of view quite out of line with the policy of the memorandum, and to revert to an earlier and less realistic type of diplomacy than that of Roosevelt and Hay. Conditions in the Far East shortly attracted the attention of the Chief Executive and of the State Department. The first occasion had to do with the Hukuang loan and the formation of the Four Power Group. As far back as 1898 and 1900 an American syndicate had received a concession for the construction of a railroad which should link Hankow and Canton, the rights conferred by China not to be transferable to non-Americans. Nevertheless a majority of the stock of the company was purchased in the open market by Belgians who assumed con-

[48] L. J. Hall, "The Abortive German-American-Chinese Entente of 1907–1908," *Journal of Modern History*, I, No. 2, 219–235.

trol. China then annulled the concession; the United States Government refused approval, whereupon, after long correspondence, an American banking firm purchased the Belgian shares. Finally in 1905, at a loss of several millions, the Chinese Government bought all the American interests. An attempt on the part of the Chinese in the provinces of Hupeh, Hunan, and Kwangtung to construct the road themselves failed. The Imperial Government then turned to an Anglo-Franco-German syndicate for funds. To this syndicate an American group demanded admission, basing their claims upon promises made by Chinese officials in 1903 and 1904 to Minister Conger. The European bankers opposed the Americans' participation on equal terms, and the Peking government gave no evidence of its intention to support the claims of the American group. On the ground that the proposed loan which

> was to carry an imperial guaranty and be secured on the internal revenues made it of the greatest importance that the United States should participate therein in order that his Government should be in a position as an interested party to exercise an influence equal to that of any of the other three Powers in any question arising through the pledging of China's national resources, and to enable the United States, moreover, at the proper time again to support China in urgent and desirable fiscal administration reforms. . . .[49]

President Taft on July 15, 1909, took the unusual step of cabling personally to the Prince Regent in Peking urging the participation of the Americans in the railway loan.[50] The Imperial Government now acquiesced, as did the European syndicate; in May, 1910, it was agreed at Paris that the construction of the Hukuang railways, including the northern section of the Hankow-Canton and the Hankow-Szechwan lines, should be equally divided among the members of the Four Power Group.

The second and third attempts of the Taft administration to influence affairs in the Far East, namely in Manchuria, were less successful than the first. The assertion by Russia of the right

[49] Statement by Secretary Knox to the press, January 6, 1910, quoted by Willoughby, *op. cit.*, II, 1073.

[50] *For. Rel.*, 1909, p. 178.

to assume what was in reality political jurisdiction over Chinese nationals and those of the treaty Powers residing in the Chinese Eastern Railway zone and the cities and towns along that line (particularly in the city of Harbin), had brought from Secretary Hay an unavailing protest. Secretary Knox determined upon another protest to Russia simultaneously with the submission to the consideration of the British foreign office of a plan

> to bring the Manchurian highways and the railroad under an economic and scientific and impartial administration by some plan vesting in China the ownership of the railroads through funds furnished for that purpose by the interested powers willing to participate.[51]

The two documents were dispatched on November 6, 1909: that to Russia was as fruitless, except as an irritant, as the Hay protest; that to England had more public but no more successful results. When approached later China and Germany briefly approved the plan but Russia, Japan, and France turned it down.

The proposed Chinchow-Aigun line was also blocked by Russia and Japan during the early months of 1910. This was followed on July 3 by the second step in the drawing together of the two former enemies who now signed a convention in which it was agreed that in case of a threat to the *status quo* in Manchuria the two Governments would "enter into communication with each other with a view to an understanding as to the measures they may think it necessary to take for the maintenance of the *status quo*." The annexation of Korea occurred shortly afterward; thousands of Koreans settled in Manchuria now came under Japanese control; in this manner the hold of Japan upon South Manchuria was considerably strengthened.

The failure of Secretary Knox's alternative schemes brought into bold relief the changes in the Far East which five years had made. More than ever it was clear that the problems of the Far East were a part of world politics, as Roosevelt wrote to his successor, President Taft, on December 22, 1910:

> Our vital interest is to keep the Japanese out of our country and

[51] Willoughby, *op. cit.*, I, 211.

at the same time to preserve the good will of Japan. The vital interest of the Japanese, on the other hand, is in Manchuria and Korea. It is therefore peculiarly our interest not to take any steps as regards Manchuria which will give the Japanese cause to feel, with or without reason, that we are hostile to them, or a menace—in however slight a degree—to their interests. . . . I do not believe in our taking any position anywhere unless we can make good; and as regards Manchuria, if the Japanese choose to follow a course of conduct to which we are adverse, we cannot stop it unless we are prepared to go to war, and a successful war about Manchuria would require a fleet as good as that of England, plus an army as good as that of Germany. The Open Door policy in China was an excellent thing, and I hope it will be a good thing in the future, so far as it can be maintained by general diplomatic agreement; but, as has been proved by the whole history of Manchuria, alike under Russia and under Japan, the "Open Door" policy, as a matter of fact, completely disappears as soon as a powerful nation determines to disregard it, and is willing to run the risk of war rather than forego its intention.[52]

The tendency toward abstract legal and moral theorizing rather than the facing of real and disagreeable facts is to be observed in Secretary Knox's reply:

. . . why the Japanese should think that we ought to accept the observance by them of one treaty right due from them to us as an offset for the disregard by them of another treaty right due from them to us I cannot understand. . . . I still believe that the wisest and best way for all concerned is for us to stand firmly on our pronounced policy and let it be known on every proper occasion that we expect fair play all round. There are indications that we shall in the future receive more support for our policy from Great Britain than we recently have had.[53]

The Secretary relied on reports that British nationals in the Far East were critical of the policy of their home government with reference to Russia and Japan in that area, but he failed to comprehend the diplomatic changes of the previous three years. Regardless of the approval or disapproval of its nationals in the Far East, England, by its renewal of the Anglo-Japanese Al-

[52] Dennett, *op. cit.*, pp. 320–321.

[53] *Ibid.*, pp. 321–323.

liance in 1905 and the signing of the Russian convention of 1907, had given evidence of its decision to consider the welfare of the empire as a whole rather than that of its nationals in the East. England was bound to Japan, and Japan and Russia were now allies. Knox's diplomacy forced Russia and Japan to admit officially that their declarations and promises to China and the United States with reference to the open door were worth nothing. To China it was made evident that the way of the weak is considerably harder than the way of the transgressor. To the student of diplomacy it became apparent that in a naughty world Roosevelt was able to go farther than Knox.

Japanese Aggression.

Among the contributing factors to the revolution which, in its military phase, began in China in 1911, were the Hukuang railway loans mentioned above. The provinces feared that the growth of foreign influence in the great Yangtze Valley might have an effect similar to that in Manchuria where Chinese sovereignty had become a shadow. The Manchu dynasty came to an end with the abdication on February 12, 1912, of the baby emperor, Hsuan T'ung. Three days later, Yuan Shih-kai became provisional president of the Chinese Republic which was recognized by the Wilson administration in May, 1913, and entered at once upon negotiations with the Six Power Group (the members of the Four Power Group with Russia and Japan in addition) for a loan of from forty to sixty million pounds; the group demanded that it alone should make loans to China for government purposes and that the salt tax should be hypothecated and administered under foreign direction.

Although the Taft administration had tried (with indifferent success) to keep open the doors of equal opportunity in Manchuria and China proper, President Wilson, less than a fortnight after taking office in 1913, announced that the United States Government would give no support to American members of the Six Power Group.

> The conditions of the loan seem to us to touch very nearly the administrative independence of China itself [he stated], and this ad-

ministration does not feel that it ought, even by implication, to be a party to those conditions. The responsibility on its part which would be implied in requesting the bankers to undertake the loan might conceivably go the length in some unhappy contingency of forcible interference in the financial and even the political affairs of that great Oriental state just now awakening to a consciousness of its power and its obligation to its people.[54]

The withdrawal of the American bankers from the sextuple group rendered less arduous the struggles of the Europeans and the Japanese for further concessions in China and its outlying dependencies; accordingly, in an attempt to prevent China from being overreached, President Wilson reversed his policy in 1918 and supported the formation of an international consortium for the making of loans to China.[55]

On the outbreak of the World War, the Washington government communicated with the Powers for the purpose of preventing the spread of the struggle to the Far East. On August 3, China requested that peace be maintained within its lands and waters regardless of the position of the Powers therein. Three days later it declared its neutrality by presidential mandate and sought the good offices of the United States. The latter proposed the maintenance of the *status quo* in the Far East; to this Great Britain and Germany agreed. Japan, however, on August 13, administered a rebuke to China for having requested the good offices of the United States instead of those of its near neighbor, and two days later Japan, in a note to Germany, "advised" the latter to withdraw or disarm immediately all its war vessels in Chinese and Japanese waters, and to hand over to Japan the territory of Kiaochau by September 15 "with a view to the eventual restoration of the same to China."[56]

The Germans in Tsingtao capitulated on November 7 to a German-drilled Japanese army and a small British force. The Chinese Government, after correspondence with Japan, notified the Japanese and British Ministers at Peking on January 7,

[54] Willoughby, *op. cit.*, II, 994–995. Also pp. 243–250.

[55] See p. 244 for fuller discussion.

[56] J. V. A. MacMurray, *Treaties and Agreements With and Concerning China*, 1894–1919, II, 1167.

1915, of the abolition of the war zone in Shantung. Japan protested and seized the opportunity on January 18 of presenting to President Yuan personally the Twenty-one Demands which had been in the hands of the Japanese Minister since December 3. In the ensuing negotiations secrecy was demanded by the Japanese Minister; the *Times* and the Associated Press were unwilling to print the report of them, the American and British publics were unaware of them, and Lloyd George later declared that he did not know what they were;[57] yet within four days of their presentation, the American Minister in Peking made known their contents. The Demands can be comprehended only in the light of previous developments in Korea and Manchuria; had they been accepted in their entirety China would have become a Japanese protectorate.[58]

The United States alone among the Powers was in a position to keep a watchful eye on the Far East during this period of negotiations. On March 13 the Japanese Ambassador in Washington received a memorandum from Secretary Bryan containing a review of United States policy in the Far East from 1899 onward; he called attention, in the Twenty-one Demands, to Articles III and V, paragraphs 1 and 4, and especially to paragraph 6—a grant of special privileges in Fukien Province—which would "be violations of the principle of equal opportunity for the commerce and industries of other nations." These proposals, if accepted by China, while not infringing the territorial integrity of the Repub-

[57] For reference as to Lloyd George, see Rodney Gilbert, *What's Wrong with China* (1926), pp. 245–246.

[58] In 1887, General Tani, Minister of Commerce and Agriculture who had been sent to Europe by the Emperor to study international politics, said in his memorial:

"Then what policy must we pursue? Cease holding the policy and principles of the past, laying aside the spirit of dependence, improve our internal government affairs, make our country secure by military preparation, not to bring disgrace upon the name and honor of our country by making an outward show only of truth, justice and authority; encourage and protect the people at home and then wait for the time of the confusion of Europe, which must come eventually sooner or later, and although we have no immediate concern with it ourselves we must feel it, for such an event will agitate the nations of the Orient as well, and hence, although our country is not mixed up in the matter, so far as Europe is concerned, we may then become the chief nation of the Orient" (Dennett, *Americans in Eastern Asia*, p. 527).

lic, would be "clearly derogatory to political independence and administrative entity of that country." Japan acceded to these objections, and no others were made. In the continuance of the correspondence the Secretary of State made, however, a concession which was to be heard of later.

> While on principle and under the treaties of 1844, 1858, 1868, and 1903 with China the United States has ground upon which to base objections to the Japanese "demands" relative to Shantung, South Manchuria, and East Mongolia, nevertheless the United States frankly recognizes that territorial contiguity creates special relations between Japan and these districts.[59]

The admission as to the effect of "territorial contiguity" was the outcome of the use made by Japanese logic of the relations between the United States and Mexico.

When, during the first week of May, relations between China and Japan became severely strained, the State Department cabled to both governments on May 6 "counselling patience and mutual forbearance," and on May 11, three days after China's acceptance of the terms of Japan's ultimatum, it sent identic notes to the Governments of Japan and China which contained assurance that the United States

> cannot recognize any agreement or undertaking which has been entered into or which may be entered into between the Governments of Japan and China impairing the treaty rights of the United States and its citizens in China, the political or territorial integrity of the Republic of China, or the international policy relative to China commonly known as the open door policy.[60]

The American Minister in Peking also stated that any residential rights for the Japanese in Manchuria must, by the most-favored-nation clause, accrue to the nationals of all the treaty Powers; his Government confirmed this statement on May 15. That the attitude of the United States was a cause of irritation to a certain section of the Japanese people may be seen by the statement in

[59] *For. Rel.*, 1915, pp. 105–111.

[60] *Ibid.*, p. 146.

the *Chuo Koron* of Professor S. Suchiro of the Law College of the Imperial University in Kyoto:

> The attitude which the United States takes toward Japan concerning Chinese problems is ever high-handed, and makes us highly discontented. The attitude shown by the United States in the spring of last year concerning the Sino-Japanese negotiations and also in the affair of Chengchiatun, recently, is as highly offensive as if she were the supervisor of Japan's diplomacy vis-a-vis China. Of course the Americo-Japan treaty of 1908 empowers the United States to champion the maintenance of the principles of equal opportunity, but we should be far from pleased to see the United States acting at every turn as if she were the only guardian of the Open Door and equal opportunity principles in China. This unreserved American attitude is calculated to make worse the misunderstanding between the two countries.[61]

Bringing China into the War.

Between February 3, 1917, when the United States broke off diplomatic relations with Germany, and April 6, when it declared war, a series of secret agreements, written and oral, was negotiated by Japan with Great Britain, France, Russia, and Italy; the import of these agreements, which were not known to the United States even after the latter had declared war on Germany, was that in exchange for support at the Peace Conference of Japan's claims to the former German possessions in Shantung and the German islands in the Pacific north of the Equator, Japan would aid in bringing China into the war on the side of the Allies, would give additional naval aid in the Mediterranean, and *vis-à-vis* Great Britain would support the latter's claims to the German islands in the Pacific south of the Equator.

On breaking diplomatic relations with Germany the United States Government, consonant with its invitation to all neutral Powers to break relations with that country, instructed its Minister in Peking, Mr. Paul Reinsch, to invite China to do likewise.[62] Upon being asked by President Li Yuan-hung and Premier Tuan Chi-jui whether the United States were ready to help

[61] Quoted in F. Coleman, *The Far East Unveiled*, p. 288.
[62] P. S. Reinsch, *An American Diplomat in China*, p. 249.

China meet the responsibilities of taking the action advised, Reinsch stated his personal opinion that the United States Government

would be found just and liberal in effecting this or other such arrangements to enable the Chinese Government to meet the responsibilities which it might assume upon the suggestion of the President [i.e., Wilson]. I should not be wholly frank with you, however, if I were to fail to point out that the exact nature of any assistance to be given or any measure to be taken must be determined through consultation of various administrative organs, in some cases including reference to Congress, in order to make effective such arrangements as might have been agreed to in principle between the executive authorities of the two countries; and I, therefore could not in good faith make in behalf of my government any definite commitments upon your suggestions at the present time.

Many Chinese were reluctant to declare war on Germany; they respected the Germans and Austrians, and thought that their power and international influence would be helpful to China in resisting the encroachments of Japan. Yet in the event of Allied victory Japan, if China were not at the peace table, might gain a firmer hold in Manchuria and Shantung and rivet the concessions made at the time of the Twenty-one Demands. This fact, together with the urgency of Reinsch and more particularly of a foreign clique in Peking, determined the hesitant Chinese upon a breach with Germany.

Diplomatic relations between China and Germany were broken off on March 14. During the following five months the question of declaring war became involved in domestic politics; in this period the president dismissed the premier and dissolved parliament, the Manchu emperor was restored to the throne for two weeks, the president himself withdrew from office and the capital, the vice-president became president and parliament set up a new government in Canton. All this was distressing to Washington. On June 6 a note was sent to Peking; hope for the restoration of quiet in China was expressed as well as the opinion that China's attitude toward Germany was less important than its own safety. This reënunciation of a century-old policy of encouragement to

a Far Eastern state in the maintenance of independence and integrity had little or no effect in China, but was a source of irritation in Japan where it was considered to be an interference in China's domestic affairs. Shortly before this the United States Government had proposed that a suggestion, jointly with Japan and England, should be made to China as to the desirability of straightening out its affairs. The United States Ambassador was informed by the Japanese Foreign Minister of the latter's surprise that the United States should send such a note without awaiting Japan's reply to the earlier suggestion.

Lansing-Ishii Notes.

Among the great nations at war with the Central Powers the only one with which Japan had not recently negotiated an understanding was the United States. Accordingly in August, 1917, Japan sent Viscount Ishii with a mission. On November 2, Secretary Lansing and Viscount Ishii exchanged notes to silence "mischievous reports." Prefacing a reënunciation of the open door policy was the statement:

> The Governments of the United States and Japan recognize that territorial propinquity creates special relations between countries, and, consequently the Government of the United States recognizes that Japan has special interests in China, particularly in the part to which her possessions are contiguous.

Here again is to be seen the value for Japanese purposes of the United States' special concern in Mexican questions; the "territorial contiguity" of Bryan reappears in the phrase "territorial propinquity." The notes continue:

> The territorial sovereignty of China, nevertheless, remains unimpaired and the Government of the United States has every confidence in the repeated assurances of the Imperial Japanese Government that while geographical position gives Japan such special interests, they have no desire to discriminate against the trade of other nations or to disregard the commercial rights heretofore granted by China in treaties with other powers.

The two Governments then reiterated their devotion to the prin-

ciple of "the so-called 'Open Door' or equal opportunity for commerce and industry in China," and declared their opposition

> to the acquisition by any Government of any special rights or privileges that would affect the independence or territorial integrity of China or that would deny to the subjects or citizens of any country the full enjoyment of equal opportunity in the commerce and industry of China.[63]

The Lansing-Ishii exchange of notes was negotiated secretly, the American Ambassador in Tokyo, the American Minister in Peking, the Chinese Minister in Washington, and members of the State Department other than the Secretary himself knowing nothing of the negotiation until its completion. Aside from the fact that unless there were a change in the policies of the two countries it was not clear why a frequent restatement should be necessary, the outstanding aspect of the Lansing-Ishii Notes was the inclusion of the concession with respect to the special interests created by contiguity.

The notes, while emphasizing the contiguity of part of China, which would seem to cover Shantung as well as Manchuria, seemed to recognize Japan's special relation to China as a whole, and this was what Ishii was negotiating for. "Special interests" in China is a term of art in diplomacy, and carries—particularly as to Manchuria because of the qualifying phrase used—recognition of a sphere of influence. Yet it may be doubted if the published texts reveal all that passed in notes and conversations, and in view of Lansing's undoubted desire to secure disavowal by Japan of hostile intentions toward China it may well be that he received assurances which, under the war conditions that allowed Japan so free a hand in the Far East, seemed to him calculated to safeguard the integrity of its helpless neighbor.

Divergent views as to the meaning of the notes were immediately expressed: the Peking legations of the two Governments issued different translations of the term "special interest"—the United States using a term denoting "special relation," Japan a term implying "special position" or "predominant interest." The

[63] MacMurray, *op. cit.*, pp. 1394–1396.

American Minister was authorized to inform the Peking government that the interests were economic, not political. Former Premier Marquis Okuma now commented:

> Hitherto, America's activities in China were often imprudent and thoughtless. For instance, Secretary Knox's proposal to neutralize the Manchurian railway was, indeed, a reckless move. The United States also relegated Japan to the background when she sent the note of June 7 to China, advising that country concerning domestic peace. Thus America disregarded Japan's special position in China. We may understand that she will not repeat such follies in the light of the new convention.[64]

The effects of the agreement upon the position of the Japanese in Manchuria and Shantung soon became apparent. An imperial government ordinance of October 1, 1917, appeared to substitute civil for military administration in the former German area in Shantung, and, in addition, over the "railway zone"—ten miles on each side of the Shantung railway—and thus to signify permanent government and annexation by Japan. The State Department in Washington, with evident disapproval, inquired of Japan as to the reported change. Japan replied that there was a misunderstanding of terms, and gave the new administration a new name, but foreign mission schools in Tsingtao were required to conform to the Japanese Department of Education, and the Japanese authorities made an unsuccessful attempt during the spring months of 1918 to take a census of American missionaries. In the Lansing-Ishii Notes Washington was attempting to weaken the effects of the Twenty-one Demands upon China and of the ensuing treaties, but the notes impaired the prestige of the United States in the Far East. They were finally canceled on April 14, 1923, consequent upon the signing of the Nine Power Treaty of Washington.

Intervention in Siberia.

While the United States and Japan were engaged in negotiating and interpreting the Lansing-Ishii Notes a crucial situation arose in Siberia growing out of the Russian revolution. In

[64] Reinsch, *op. cit.*, p. 311.

the summer of 1917 an unofficial suggestion was made in Europe that Japan might be invited by England and France to intervene in Siberia. In December a Japanese note to several of the Allies suggested that Japan should enter Siberia to "preserve order" and protect the Allied interests in the Russian Empire, and in exchange receive certain exclusive concessions of an economic nature in eastern Siberia. All ambition for territory was disclaimed. When a Japanese warship appeared at Vladivostok on January 12, the British and American Consuls expressed to the Japanese their pleasure at Japan's action; the Washington government, nevertheless, declined to give its approval to the plan for intervention. In mid-January a second Japanese warship, a British and an American cruiser, appeared at Vladivostok, and throughout the spring of 1918 Japan continued its diplomatic and military preparations.

In the United States both governmental and public opinion were slowly turning toward approval of Allied intervention. Early in July the representatives of the Allied and Associated Powers, including the American admiral, Knight, issued a declaration at Vladivostok announcing the taking over of that city on behalf of their respective governments. The Japanese announced their friendship for Russia, their determination to respect "the territorial integrity of Russia and of abstaining from all interference in her internal politics," and declared that as soon as the Czechoslovak troops had been relieved they would "immediately withdraw all Japanese troops from Russian territory." On August 3, the United States proposed to Japan a joint Siberian expedition, the objects of which should be the rescue of the Czechs in Siberia, protection from the Germans or Bolsheviks of the vast war stores at Vladivostok, and aid "to steady any efforts at self-government or self-defense in which the Russians themselves may be willing to accept assistance."

Each of the Powers agreed to send not more than seven thousand troops, but Japan dispatched seventy-two thousand men into Siberia or to its borders. Extreme divergencies of policy and action, not always manifested in the most friendly manner, brought about strained relations between the Japanese and the

Allied and Associated forces, and on November 16 the United States Government protested to that of Japan through its Ambassador in Tokyo and the Japanese Ambassador in Washington. The conclusion of the armistice lessened the strain. Japan withdrew almost half its forces and gave assurance of hearty cooperation henceforward with the general in command of the American forces in Siberia, numbering about eight thousand.

The Tokyo government apparently found difficulty in controlling its military in Siberia, and during 1919 friction continued among the interveners; there were violent encounters between the Japanese and the Bolshevized groups of eastern Siberia, and much bitterness resulted. Finally, on January 12, 1920, the United States announced to Japan its intention to withdraw its forces from Siberia. This began on the seventeenth and was completed by April 1. During the same period France, England, Italy, and China withdrew their troops. On March 31 Japan declared its inability to withdraw at once but stated that

> as soon as the political situation in the Russian Far East has become normal to the extent that there will be no danger for Korea and Manchuria, and life and property of our nationals will be protected and normal railway communications restored, that then, after the evacuation of the Czecko-Slovak forces has been completed, our troops will be withdrawn from Siberia as early as possible.[65]

By an agreement of April 29, 1920, with the temporary Russian government of the provinces,[66] the Japanese gained practical control of the Maritime Province of Siberia, and early in July seized the northern half of Saghalin. This contravened the Japanese announcement, made when President Wilson proposed a joint expedition, that

> . . . in adopting this course, the Japanese government remain unshaken in their constant desire to promote relations of enduring friendship with Russia and the Russian people, and they reaffirm their avowed policy of respecting the territorial integrity of Russia and of abstaining from all interference in her internal politics. They

[65] Quoted by Morse and MacNair, *op. cit.*, II, 937.
[66] H. K. Norton, *The Far Eastern Republic of Siberia*, p. 117.

further declare that upon the realization of the objects above indicated (the relief of the Czecho-Slovak troops) they will immediately withdraw all Japanese troops from Russian territory.[67]

The United States in a note expressed surprise and disapproval, but although this created indignation in Japan, it had no appreciable effect on the position or policies of the Japanese military in Siberia.

On May 31, 1921, Washington sent to Tokyo a note declaring that it could

> neither now nor hereafter recognize as valid any claims or titles arising out of a present Japanese occupation or control, that it cannot acquiesce in any action taken by the Government of Japan which might impair existing treaty rights or the political or territorial integrity of Russia.[68]

Political Settlements at the Peace Conference.

Although the Japanese Government, by opening negotiations at Dairen with representatives of the Far Eastern Republic, tried to prevent the Siberian question from coming before the Washington Conference, the publication in January, 1922, by the "trade" delegation from the Far Eastern Republic, of a series of documents which indicated a Japanese-French agreement made necessary some consideration of withdrawal from Siberia. Baron Shidehara assured the Far Eastern Committee of Japan's determination to withdraw as soon as expedient.[69] Japan evacuated Siberia,[70] but its hold on Shantung outlasted Versailles. While most, if not all, of the other secret agreements of the Allies were reported to the American Government, no evidence has been produced that that Government or any member of its delegation had heard of the Japanese Shantung treaties be-

[67] Morse and MacNair, *op. cit.*, II, 932. [68] *Ibid.*, pp. 945–946.

[69] L. L. Schuman, *American Policy Toward Russia Since 1917* (New York, 1928); and Morgan Young, *Japan Under Taisho Tenno* (London, 1928), chapters XII, XIII, XIX, XXX, XXXI.

[70] "So ended a four-years' campaign to save Siberia from Bolshevism. It cost 700,000,000 yen, thousands of lives, and infinite misery. It desolated, disorganized, demoralized, and ruined the whole country, and destroyed Japan's trade there, besides leaving a legacy of hatred" (Young, *op. cit.*, p. 278).

fore going to Paris. The struggle between the Chinese and Japanese delegates to the Peace Conference over the disposition of the former German holdings in Shantung was protracted and severe; Great Britain, France, and Italy redeemed their promises in the secret agreements by supporting Japan's claims. The United States, alone among the great Powers, had not promised support to Japan in its Shantung claim—a fact which one of the Japanese delegates pointed out privately to Secretary Lansing, stating that Japan would blame the United States if the Japanese did not receive Kiaochau, and making what Mr. Lansing called "an indirect threat of what would happen to the friendly relations between the two countries if Japan's claim was denied."[71] The Japanese also put forward a demand for the recognition of racial equality, a sincere demand but useful also in bargaining. On April 21, Baron Makino and Viscount Chinda called on President Wilson. The President renewed Lansing's earlier proposal that the German rights in China be ceded to the Allied and Associated Powers which should attempt a just disposition of them at a later date; that with the exception of Yap, which the President considered should be international, the islands in the North Pacific were to be under a Japanese mandate, and that all "spheres of influence in China" should be abrogated. He sought coöperation among the Powers in order to prevent the exploitation of Asia and to maintain the economic and political integrity of China. Nevertheless the support of the Japanese claim by Great Britain, France, and Italy, and the fear that Japan might bolt the conference as Italy did temporarily, frustrated his efforts; he abandoned his opposition, and the Treaty of Versailles transferred to Japan without reservation all German rights in Shantung.

[71] R. Lansing, *The Peace Negotiations*, p. 253.

CHAPTER TWO

THE EMERGENCE OF MODERN CHINA

THE ORIENT AND THE OCCIDENT

FROM the beginning of the contact between the West and the Far East the major political difficulties have been involved with the feeling on each side that its own standard represented a universal norm of behavior or procedure upon which to build international relations; each standard was considered not so much superior as indispensable.

China, to begin with, "was more than a state in the western sense of the term. It was a system of international relations."[1] Of enormous extent, China, under the Ming dynasty when the Portuguese first arrived there, included fifteen provinces; under the Manchus there were eighteen provinces, each administered by a governor-general who, although accountable to the emperor, was supreme in his own right and free to negotiate with other states; the western states, accustomed to the idea of unified authority, took offense when they found they were expected to negotiate with minor officials. Moreover, China's conception of itself as the one civilized state in a world of varying degrees of barbarism admitted no obligation to hold commercial intercourse with other nations. This independence was met by another absolute, a prerogative of the industrial and commercial nations to trade wherever they would; conflict was inevitable. One fruitful source of misunderstanding was the conviction held by the Chinese authorities that the foreigners were interested exclusively in trade. This view was confirmed by the emphasis put by the foreign representatives on trade questions and by the fact that in the early days practically all the disagreements grew out of trade relations. How, for example, was it possible to bridge the gulf that at Canton in 1834 separated Lord Napier and the local viceroy of the emperor? Lord Napier thought that as a representative of his sovereign he

[1] A. N. Holcombe, *The Chinese Revolution* (1930), p. 63.

should deal directly with the viceroy, but the Chinese had other views as to the proper way of conducting foreign commerce:

> The Celestial Empire appoints officials—civilian to rule the people, military to intimidate the wicked; but the petty affairs of commerce are to be directed by the merchants themselves. The officials are not concerned with such matters. . . .
>
> The great ministers of the Celestial Empire are not permitted to have private intercourse by letter with outside barbarians. If the said barbarian headman throws in private letters, I, the Viceroy, will not at all receive or look at them. . . .
>
> To sum up the whole matter: the nation has its laws; it is so everywhere. Even England has its laws; how much more the Celestial Empire! How flaming bright are its great laws and ordinances! More terrible than the awful thunderbolt! . . .[2]

One of the "rights" involved in this conflict was no better than the other; each attached to the concept of sovereignty. The difference was that Lord Palmerston, the British Secretary, was able to support the western idea *vi et armis*.

The Chinese were not impressed by their "barbarian" visitors. They did not realize or appreciate the full value of the westerners' skill in human organization and efficiency, and a short trial made them conscious that, although less effective in practical accomplishments, they were at least the equals in intelligence of those who had burst in their doors, quicker-witted in reading character and in anticipating another's thought, more ingenious, subtle, meditative, and philosophical. While one type of westerner offended by his cool assumption of superiority, another, the more democratic type, appeared to the older Chinese rude and plebeian. Reserve being to them essential to politeness, this easy familiarity seemed offensive, at times insolent, and wanting in dignity when used with social inferiors. With it went the boisterous laugh which grates on the nerves of the cultured Chinese, and "chaff" or facetiousness, being incomprehensible, seems the quintessence of vulgarity. Equally vulgar to the older Chinese was the westerners' tendency to express irritation or bad temper, which, containing no dignifying element of passion, was to them a mark of vulgar want

[2] H. B. Morse, *International Relations of the Chinese Empire*, I, 126.

of self-control. Putting this estimate on "European" personality, the Chinese were the more warmly inclined to resent the violence with which contact with westerners was forced upon them, when the amorphous and disintegrating empire was compelled to accommodate itself to a new movement of world trade and to the expanding powers of white western nations.

The Impact of Dynamic on Static.

The impact has been mainly one of western culture on eastern, dynamic on static. Transformation, although marked with great confusion, is in the direction of modernization after the pattern of Euro-American organization. No longer do the nations of the Far East adopt the civilization of China, as they did for many Cathayan cycles. China's once apt pupil, Japan, has broken the mold by adopting western civilization, and China is perforce following.

Material changes are of course the easiest to make and the most inescapable: railroads, automobiles, airplanes, telegraphs, wireless, factories, typewriters, and each mechanical innovation calls for others as an aid to its more effective functioning. Equally inevitable as a consequence of the changes in material civilization is a metamorphosis of the mental outlook. The railway traveler has another measure for time and more necessity for keeping to a schedule than the passenger on the canal. In the long run conditions shape social institutions, and those institutions shape social philosophies. These changes in material civilization and in mental outlook are creating a constantly enlarging community of attitudes between East and West; from the West came machines, capital for factories using regional materials, and cheap labor seeking local markets, the education that is integrated with the industrial age, and the political institutions that have evolved for the protection and development of industry and commerce.

But a wide gulf remains. The penetration of the West into China has encountered a resistance provoked by the threat of change, as well as by the upsetting due to the changes of the old ways of getting a living. First, impulses from the West collided with the inertia of the older generation who revered the culture of

the Sung dynasty and saw in the coming of the new era a hasty destruction of the cultural heritages of the East. This expressed itself in the sphere of foreign relations in terms of a general anti-foreignism. The resistance of the modern generation is engendered by a positive belief in "Nationalism," the first of the Three Principles of Sun Yat-sen, or "China for the Chinese," and is expressed in a sweeping demand for the renunciation of all unequal treaties. Railways, steamships, and motor buses take much business from those engaged in the older means of transportation, manufacture in factories cuts into the work of the old handicraftsmen, and similar consequences of the comparatively small amount of mechanization which has come in China have also aroused real if unorganized ill-feeling.

The conservative effort to create an immobility that can withstand the seemingly irresistible is the expression of the strains, disharmonies, and profound cleavages that are taking place in the Chinese social anatomy and physiology. The most perplexing problems in diplomatic, commercial, or missionary relationships with China arise from the internal maladjustments incident to the fact that, while at some points there is acceptance of the modes of western life, at most points the age-long culture still persists, and is strong enough to affect even the behavior and attitudes of members of those groups most susceptible to western contacts—the student, merchant, and official classes. The young official who speaks a competent English, can use the terminology of modern political science, and has adopted western dress, is frequently not yet a free agent even as to his own marriage. In his advocacy or execution of measures affecting numbers of people he is held fast by the deep multiple roots of family-clan loyalty and the hallowed institutions of village life.

Folkways.

The immemorial unit of responsibility in China—and responsibility and authority have interchangeable meanings—is neither the nation or the community at one extreme, nor the individual at the other, but the family. The family or sib consisted of three or four living generations, frequently occupying the same group of

connecting houses. The oldest male of the oldest generation was the head, and possessed final authority in all matters. In the classic on filial piety it is said that "there are three thousand crimes to which one or the other of the five kinds of punishment is attached as a penalty; and of these no one is greater than disobedience to parents." A forty-year-old gateman in a Peking home would travel to his country home to "get permission from his father" to change his job. Initiative and self-reliance are not begotten of this reverence. In the south the customary family units were particularly united and large, and the council of the elders reinforced and limited the authority of the head.

The family thus organized was considered responsible for the behavior of its members, and for their debts and misdemeanors; part of the security of dealing with a Chinese merchant lay in the family pressure which could be brought to bear on the individual, and, in rare cases of default, in the traditional obligation of the merchant's family to pay his debts. The Ming dynasty introduced absolute monarchy and a period of bloody horrors;[3] both its penal code and that of the Manchus provided vicarious punishment of a member of the family for the absconding debtor, and a traitor's execution called for the extermination of his whole clan.[4]

The resistance of westerners to the jurisdiction of officials engaged in imposing such obligations was not unnatural. The Chinese on their side found a certain comfort in a solidarity which diminished the burden of individuality and personal responsibility and were easily offended by the philosophy of the early Christian missionaries, with its insistence on the individual responsibility of each man or woman for his or her own behavior. Any disturbance of the traditional social attitude in consequence of conversions to another faith was regarded with great alarm by the authorities. Such an anomaly retarded the work of the Catholic church in the eighteenth century. By the Bull of 1742, and subsequent acts of

[3] R. Wilhelm, *Kultur Geschichte Chinas* (Muenchen, 1929), p. 274.

[4] Westerners, astonished at a liability resulting from kinship and extending even to criminal offenses, ignore the fact that in western jurisdiction exists the doctrine of *respondeat superior,* as in the case of an employer's liability for certain torts of his servant, the doctrine of collective liability arising from the negligence of a municipality, and the common law escheat of property attending attainder for felony.

that century, the Pope settled the "rites" question which forbade ancestor worship by Chinese Christians: "The Catholic Church had decided not to compromise its customs or adapt itself to what it deemed superstitions in Chinese life."[5]

As in the case of the family, so in the villages the elders ruled through headmen and counselors. Old age and well-established position were supreme in the villages of loosely grouped clans in the north and in the large village towns of blood relatives in the south. Youth or even middle-age had little opportunity to gain active experience in the direction of community affairs except by observing the doings of the elders.

As 80 to 85 per cent of the people lived in these rural areas in villages grouped about a market town, or in larger towns with surrounding fields—the whole area having perhaps not more than a twenty-mile radius—the life of the region was economically, socially, and politically self-sufficient. Arthur H. Smith likens every Chinese to "a character in one of Richter's novels who assumes the first meridian to be through his own skull." The people raised their own food, made their own clothes, and built their own houses; they had no roads and of course no newspapers.

> The good people [said Lao Tze] are those who live in countries so near to each other that they can hear each other's cock crow and dog bark and yet never have had intercourse with each other during their lifetime.[6]

The localism nourished by these conditions prevailed also in the industrial and commercial guild life of old China; every one of forty-eight commercial craft and professional guilds of Peking drew its membership solely from the city and nearby area, i.e., as in the case of the agricultural units, from the economic area practicably workable on a foot-pace basis.

Distribution of Population.

These psychological considerations are related to the land and population problem. This, as has been repeatedly pointed out,

[5] K. S. Latourette, *History of Christian Missions in China,* p. 152.
[6] Quoted from Paul Monroe, *China, A Nation in Evolution,* p. 112.

concerns the distribution of the people rather than their numbers. While there is not sufficient food available on the present basis of production adequately to meet the subsistence needs of the people living in the central lowlands, there are vast areas of arable, sparsely populated land in Manchuria and far western China. If the maritime customs figures of 451,842,000 for the population of China in 1928 are taken, the density of population of the eighteen provinces and Manchuria is 238 per square mile, a figure much lower than that of Belgium, England, Japan, Italy, or India. This figure, however, does not indicate the real condition of overcrowding which affects most of the people. Half of the total population occupy but a quarter of the total area of China. In rice-growing Chekiang and Kiangsu sixty-five villages show a density of 980 to 6,880 per square mile; the Shantung wheat-growing areas have a density of 1,800–3,000 and a number of other wheat-growing areas of North China show 550 to 2,010 per square mile.[7] These figures represent a density higher than that of any other nation. In vast areas of central and northern China the law of Malthus, that "the power of population is infinitely greater than the power in the earth to produce subsistence for man," operates with terrible effect.

For hundreds of years the Chinese peasants have subsisted on a scale which seems woefully insufficient when judged by western standards. Chinese dietaries are composed mainly of cereals and legumes, the proteins from which are of much lower nutritive value than those from milk, eggs, and meat. Yet even according to Chinese standards it has been estimated that one out of every eight Chinese, or fifty million people, are affected by famine conditions.[8] The Chinese, because of the environment that has determined his type, is not naturally a pioneer. He depends upon a town economy, and that in Manchuria has been provided in part by the railroad construction of the Russians and the Japanese. But more than that has been necessary to draw him into the fertile northern plains. The Chinese is attached to his home because it is the burial ground of his ancestors and the abode of their spirits and will in turn be

[7] Walter H. Mallory, *China; Land of Famine,* p. 15.
[8] Fang Fu-an, *China Critic,* February 6, 1930.

his own; he prays that he may have many sons to care for that resting place, whether in the family temple or at the burial mounds which sometimes occupy one-fourth of his meager holdings. He cannot easily be persuaded to leave an area starving from flood or drought or congestion and go to the fertile fields of Manchuria. There his spirit would be lonely; the graves of his forefathers are his home. But starvation and an oppression not hallowed by tradition have combined to weaken the hold of the home tie. Of late years escape from these conditions has been found in wholesale migration into the virgin fields of Manchuria. For the past four years fully a million Chinese have each year passed beyond the Great Wall to establish new homes in the granary of Asia; the famine years of 1928 and 1929 saw considerably larger movements than this, and the movement is continuing. The wonder, however, is not that the movement is so large—and it is the largest movement of people in the world—but that it is not much greater.

In planning reforms, in determining the extent and rapidity with which fundamental changes in behavior and outlook are possible in China today, such considerations cannot be neglected by any government. Semi-starving and undernourished people take little interest in general political principles. Extensive progress in education, public health, active participation of citizens in the duties of citizenship, must wait for some solution of the food and population problem; mob violence and anarchy are the correlative of a poverty-stricken countryside, and farmers are becoming bandits in many regions, particularly in Kwangtung, Hunan, and Kiangsi, in central China, and in Shensi and Kansu in the famine-ridden northwest. Yet while this is true of the masses of people in the interior no one can fail to be astonished by the progress made by the modernizing groups.

The Scholar Caste.

Within the limits of its functions the larger national interest of the scholar-ruler class was in contrast to the localism of agricultural and industrial groups. Indeed, under the old *régime*, through fear of the corrupting power of the local family bonds above emphasized, no mandarin could be appointed to a regular official post in his native province. The temptations of scholarship were

strong; wealth, social prestige, power, official position, and worship after death were the reward for the successful scholar, who by his mastery of the classical literature was able to pass the provincial or national examinations. The ambition of the farmer's or the artisan's son was to lay aside his blue tunic for the scholar's gown, and to devote himself to the classics and to employment with the slab of ink and the camel's-hair brush. Successful devotion to learning led to official position, from prime minister to clerk in the local official's office, to public esteem and to the possibility of great wealth and power; one may see today poles erected at a village entrance as a thank offering for the success of a village youth in an examination.

The ancient examination system, designed to discover the talented and to make them the rulers under the emperor, was founded during the T'ang dynasty (618–906 A.D.) but the general practice had already been in existence a long time. Though the system was abolished by the Empress Dowager in 1905, the practice of three thousand years has had enduring effects. The inclusion in the "organic law" of the present government at Nanking of an Examination Yüan is an evidence that the fundamental idea of a civil service examination has not been abandoned.

Men of talent and high mentality have administered affairs, but their interests have lain in the field of theoretical studies. The highest mental activity was concentrated upon the history, poetry, philosophy, and ethics of the sages. Brought up in theoretical studies the intellectual leaders of China naturally found practical and technical pursuits distasteful; commercial and industrial enterprises did not attract the keenest minds. Leadership lay in the field of erudition, and success depended upon mastery of literary forms rather than of the substance of thought. The successful were stereotyped by the conditions of their success; the unsuccessful became "expectant officials," as the young scholars in Peking used to write on their calling cards. Since the days of Confucius the accepted classification of the relative importance of human pursuits in China has been: scholars (officials), farmers, laborers, merchants. Soldiering has not been recognized as an honorable calling. An interesting commentary on the difference in values

between China and the West results from comparing the seating arrangements for a London Lord Mayor's dinner; the Church heads the table, followed by the Navy, the Army, the civil officials, and finally the scholars, with merchants and professional people together at the end of the list.

The scholar's or cleric's tendency to put into Chinese characters a full description of the task to be undertaken and the methods of solving it and to believe that thereby an effective attack upon the problem has been made—a tendency which finds more than one exemplar between the Levant and the Yellow Sea—thrusts its head into the administrative life of the Republic of China. Every ministry has its new and elaborate plan. The Public Health regulations, for example, cover everything from maritime quarantine stations to minute regulations for the selling of foods; the practical next problem is not so much considered as the ideal state aimed at as the goal. If all paper plans were effectively put into execution the nation would be modernized and reorganized in a brief period, but the intellectualizing of the general situation frequently draws off the energy needed for critical problems. There has been little effort to refer reorganization plans to the permanent forces of city or village life and to the attitudes and interests of the men, women, and children living there. This emphasis on the idealistic paper plan makes Chinese dealing with the practical-minded foreigner extremely difficult. "We demand immediate relinquishment of extraterritoriality," say the Chinese, "and you must grant it to us for we have a thoroughly modern legal code which has been adopted by the government." "But," says the foreigner, "the code is valueless, for you have not made it work."

Yet although a classical education which emphasizes taste and the value of memorizing has many defects as a training for administrators, the mind that is master in one field is, on the basis of averages and therefore presumptively, the master in other fields, and the Chinese are not unlikely to retain the leadership of the keenest minds trained in more modern methods; such a continuance of type might well preserve them against some of the follies and untidinesses of democracy. The leaders themselves recognize this, and the significance of the shift in the educational system and

the resultant change in the mental outlook can be grasped only when the importance of the scholar class in China is understood. The rise of the military and of the industrialists is an important sign of the times, but the masses of the people are still influenced principally by the intellectuals. Even the students are listened to with respect. They played a large part in creating the emotional outburst against the corrupt Manchu *régime* that hastened its overthrow at the beginning of the Republic. Student agitation, too, was vitally effective in the overthrow of the Anfu *régime* in Peking in 1919 and in the antiforeign agitation in 1925. Most of the antiforeign boycotts were effective as long as they had student support. A party of American students traveling in China were asked more than once by Chinese students by what kind of organization in the United States they controlled their government.

Another inveterate principle was that government should as far as possible refrain from establishing such rules as would confuse the simple-minded people and interfere with their folkways. Reform measures of a central government have always had a hard road in China. Confucius said: "The people are difficult to govern because the officials are too meddlesome." In recent years at least, outside of paying taxes regularly and appearing before the magistrate for trial in major criminal cases, the villagers have insisted on living a life of their own with practically no relation to the government—the village headman and elders conducting all local affairs, governmental, judicial, and educational. When an official transgresses the universal standards of justice, the people feel justified in violent protest, even in expelling him and in getting someone who will rule as a ruler should. "If the people have no faith in their ruler, there is no standing for the state," said the sage.

Somewhat apart from the scholar-ruler class were the economically solid middle-class people, roughly describable by the term "the gentry." The possession of substantial property was in general the criterion of inclusion in this group—the position depending upon the amount of property. Many of the men in this class were ex-officials or the descendants of officials. Others had risen

from the ranks of simple peasants or day laborers. In the cities, these men frequently were the proprietors of shops or businesses of various sorts; in the rural regions they were the larger landholders. The men of affairs, particularly those in the same business, were generally associated in more or less loosely organized guilds; the "co-hong merchants" who were designated to deal with the earlier foreign traders at Canton were such a group, and the bankers, a large proportion of whom throughout the country were men from Shansi province, similarly had their own organization. These gentry provided in the main the link between the officials and the ordinary people; taxes and special levies were paid through them; they interpreted and usually saw to the carrying out of official orders; they served, in brief, as the skeleton of the country, the officials being the nerves and blood vessels and the people the flesh.

The ordinary people, especially those engaged in particular occupations, also had their own guild organizations—the carpenters' guild, the butchers' guild, the porters' guild, even the beggars' guild, in the cities; the Yangtze junkmen's guild on the stretch through the gorges, the chair carriers' and the carters' guilds in various regions. These guilds gave a cohesion to the workers in their special occupations which acted as a stabilizing factor, and also helped materially to protect the individual workers from exactions by the officials and the gentry.

These fundamental domestic factors which affected not only foreign relations with China but also the modernization of the country have been spoken of as pertaining to the country as a whole. But the differences between north and south must not be forgotten. The south Chinese are restless, colonizing and adventurous, commercial, progressive, not to say revolutionary in politics, receptive of western ideas; the northerners are more military, cohesive and conservative, tolerant of the evils of existing government. But for north and south alike change is inevitable and its signs are apparent. The obstacles that retard widespread change, and create tension and possible conflict as change comes have been sketched. The cause of this change from old to new and the manner of its coming must next be summarized.

THE WEST GOES EAST

Well before the establishment of the Empire at Rome, flourishing trade was carried on between the eastern end of the Mediterranean basin and the people of China. Over the ancient caravan routes across central Asia, silks and other products moved westward, and slaves, certain kinds of gems, and some food plants (such as the watermelon) were transported to the East. Buddhism came up into China from India early in the Christian era, bringing with it not only China's first broadly conceived religion but also vital new art impulses. Nestorian Christians flourished around the imperial capital in the seventh century A.D., and there was a thriving Jewish community in Honan five hundred years later, although both virtually disappeared and left no significant trace in Chinese development. The spread of Mohammedanism up into central Asia in the seventh century swept the fierce adherents of this religion into northwestern China, where they have been a racially and culturally distinct and important element in the population ever since. In the fourteenth century Catholic missionaries entered the country, and subsequently secured a powerful position at court, only to be ousted from the country when the feeling grew that they were the advance agents of political and military aggression; meanwhile, however, they had contributed not a little to the development of astronomy and mathematical studies in China, and had laid foundations for the spread of Christianity; these were partially buried but not completely destroyed during the following centuries. In the sixth and seventh centuries Arab traders had found their way by sea, around India, to the southeastern ports, thus opening up new trade routes which were followed by the Europeans on their voyages to the East beginning in the sixteenth century.

While China was thus in commercial and cultural contact with the Mediterranean basin from well before the beginning of the Christian era, the development of its cultural and economic life went on virtually unaffected by ideas or processes from the West. The one really significant contribution to Chinese development from outside the country, up to the beginning of the nineteenth century—Buddhism, with its associated art impulses—came from

another part of Asia, namely, India. Mohammedanism, too, was Asiatic in origin.

The dynamic, outward-moving tendencies of the modern western nations, however, carried modern western civilization with an irresistible impact to China's shores. The stream of western ways of doing and thinking has been flowing into China for over a century and a quarter, first as a tiny trickle through a few centers in the south and then as a steadily growing flood through innumerable channels. The material usages and the social organization of traditional China, forced out of its long-established self-sufficiency and quietism, have been giving way before the aggressive nationalism, emphasis on individual rights and responsibilities, the superior military organization, the commercial necessities, and, most basic of all, the scientific achievements of the western world; in this diffusion process, an ancient culture, hardened by the traditions of centuries and fortified by the philosophy of acceptance and worship of the *status quo*, after a century of resistance has succumbed to the impact of a civilization which constantly improves devices for the utilization of material nature, enriches its votaries by the substitution of machine for man labor, and by ever seeking new sources of raw material and new markets for surplus manufactured goods insists on bringing the entire globe into its system.

Trade was the basis of the first contacts between the modern West and China, and trade has remained ever since not only financially by far the greatest factor in the relations between China and the rest of the world but also one of the principal channels through which new ideas and methods have poured into the country and contributed to its awakening. The presence of foreign business men, with their new ways and standards of living, in the many important interior cities where the foreign firms have established agencies, brought western ways next door to millions all over the country; and the standards of city administration and building set by the foreigners in the concessions at the treaty ports have been of incalculable importance in revolutionizing Chinese conceptions of what should and could be done with cities. Business methods, in banking, buying, and selling, in transporting

and handling goods, as demonstrated in China by the foreign firms and as learned by the many Chinese who have gone abroad to study or for business, have also profoundly affected the methods of the Chinese business men and stimulated both thinking and acting in the economic field.

While trade brought westerners to China and has played a large part in the remaking of that country, it has also been the means of opening still another channel of new ideas. The Chinese for generations, particularly those in the southern provinces, have been emigrants, going to neighboring lands in search of better economic opportunities. During the past century this movement has been accelerated; thousands upon thousands, running into millions, have gone from China not as students or business men but as simple laborers bent on securing better opportunities than their crowded home villages afforded. Siam, the Straits Settlements, Burma, the Philippines, Hawaii, the United States, South America, Australia, even South Africa, have seen these thrifty workers pour in, settle down, save, and gradually build up wealth. No one knows exactly how many Chinese have gone abroad in this way, but these *émigrés* have had a marked influence in the awakening of China. They have written home about their new experiences; many, after accumulating what to them is a fortune, have returned home to live, bringing with them naturally a widened outlook; not a few have contributed substantially to the financing of the various movements looking toward political changes (Sun Yat-sen, in fact, received from overseas Chinese most of the money for his revolutionary activities both before and for the first few years after the establishment of the Republic), and in recent years wealthy Chinese abroad have given large sums for the development of education in their homeland.

The Missionaries.

The penetration of the Far East was not only military, political, and economic, but also religious.[9] To the great mass of the

[9] The State Department estimate of American missionary investments in China is $52,109,073; private estimates give the figures as about $80 million; C. F. Remer, *American Investments in China,* p. 33. Also see discussion of American investments in China, pp. 243–254.

Chinese people the violence of the impact was at first more significant than the elements of the culture for which the way was opened. There was a pell-mell of rifles, cotton cloth, sewing machines, and Bibles, and the heralds of Christianity enthusiastically sought converts to the religion of Jesus, variously interpreted by the Roman Catholic and the many Protestant faiths.

In their zeal for the uplift of the Chinese people, and their sincere belief that since the only salvation for themselves lay in the way of their religion so must it be also for the Chinese, some groups sought, successfully, to have special privileges for their propaganda and special protection for their converts written into treaties. The troops and naval forces of the western Powers, although rarely made use of because of the remoteness from the coast at which so many missionary stations lay, became the potential support for the ministers of the gospel of peace. Moreover, some missionaries, seeing in the Chinese only lost sinners in a heathen world, underestimated the value of an ancient culture; others seemed to associate the gospel of Jesus with the factories and the governmental systems of the West; some there were, fortunately, who through profound appreciation of Chinese culture, became the chief interpreters of East to West.

The question of "religious freedom," which in this case meant the right of Christian missionaries to preach unmolested and to make converts, own property, build churches and hospitals, to rent or build houses, and to open burial grounds anywhere in China, early became the subject of treaty stipulations. The first treaty, that of Nanking in 1842, granted the right to preach and teach. The Treaty of Tientsin of 1858 opened wide territories to trade and travel, and the missionaries pressed forward into these new regions. Treaties signed between 1858 and 1903 with various western Powers reiterated, redefined, or amplified this right to spread Christianity.

The Imperial Chinese Government from time to time issued special decrees dealing with the treatment of missionaries. On June 13, 1891, a decree was issued "ordering protection to be afforded to foreign missionary establishments," and a decree of

August 9, 1895, ordered "protection of missionary establishments and suppression of idle stories and suspicion." In 1898 an edict ordered "officials to guard carefully against missionary troubles and to afford 'thorough protection to missionaries passing to and fro.' " These orders were ignored during the Boxer uprising of 1900, but renewed later.

Pledges of protection of missionary life and property were repeated at intervals by the Republican government, and by individual military commanders in the years which followed the overthrow of the Manchus. The legal rights of the missionaries continued substantially unchanged until, in 1928, the Nationalist government issued, through the Foreign Office, special regulations regarding foreign property which, among other things, canceled the right of missionary bodies to own land, though continuing the right to lease. Since this was a unilateral declaration and conflicted with certain treaty provisions still in force, the question of the legality of the regulations arose and still remains unsettled.

In recent years the missionaries as individuals, and through their organizations, have increasingly repudiated any claim to special privileges provided by treaties. The feeling is strong among them that if Christianity is to secure a real foothold in China it cannot rest on foreign authority. An illustration of the change in attitude is furnished by the different courses taken following the killing of missionaries and the destruction of missionary property during the Boxer uprising in 1900 and during the disturbances in 1926 and 1927. Practically all of the missionary organizations, and many individuals, put in claims for compensation for loss of life and property when the representatives of the foreign Powers were determining the indemnity to be exacted from China for the Boxer uprising; in only individual and isolated cases were similar claims presented when the assessment of losses in the 1926–27 troubles began, even though the property losses then probably were considerably higher than in 1900.

Although the Catholic missions have a longer history in China than those of Protestant denominations, they have not been as active in specifically evangelistic work, nor in the development of

educational and similar activities in conjunction with the specific teaching of religion. An exact estimate of the relative strength of the Catholics and Protestants is somewhat difficult because of the difference in the way records are kept. The most recent available figures give approximately 5,000 Protestant and 3,500 Catholic foreign missionaries. Including Chinese *frères*, nuns (foreign and Chinese), and other regular members of the Catholic missions, the total of workers is 7,500. The ordained Protestant Chinese workers number approximately 1,250. Protestant communicants number not quite 400,000 while the Catholics have nearly 2,500,000 on their rolls.[10]

Other Foreign Pioneers.

In the past quarter of a century the Protestant movement has added to the enthusiasm for purely evangelistic work, which characterized its earlier stages, a growing interest in medical work—general medical practice, the founding and conducting of dispensaries and hospitals, and the training of Chinese physicians and nurses—and educational work, consisting principally of the founding and conducting of western style schools from kindergarten to university and the training of Chinese teachers. As the movement gathered momentum, the missionaries of religious faith became the pioneers also of medical science, modern education, and social reform, and the chief medium for the diffusion of western ideas.[11] More recently the Catholics have been turning their attention to such means of establishing contacts with and helping the people. Protestants and Catholics alike emphasize increasingly the need for Chinese leadership in the Christian movement in China.

Both the Protestants and the Catholics have established institutions of higher learning in China, in addition to numerous schools of lower grade. The Protestant colleges usually aim to

[10] Figures summarized from *China Year Book* (1929–30), pp. 497–518.

[11] Some of the later enterprises in the medical and educational field are not specifically linked up with the missionary movement. The most conspicuous of these is the Union Medical College in Peking, taken over and reorganized by the Rockefeller Foundation in 1919–21, into the maintenance of which as a first-class medical school the Foundation puts annually nearly $1,000,000.

provide a general education while the Catholics concentrate more on special preparation for the priesthood or specifically religious work in other lines, although the Catholic University, established by the American Benedictines at Peking in 1923, offers general courses. So far the Catholics have not permitted coeducation in their schools, except in the lowest grades, while the Protestants have coeducational colleges and also a special college for women. The specifically missionary Protestant colleges number some twenty-three, with an enrolment of about 4,000. The Catholic work in this field is considerably less.

Taking the hours of instruction offered as a measure, the greatest emphasis was laid on the natural sciences and mathematics, with language a close second and the social sciences next. In all these institutions until recently, and in some of them still, religious instruction (Christian) has been required; those that have registered with the Chinese Government in accordance with the new laws, however, have been compelled to make such instruction elective.

Chinese Students Abroad.

Foreign impacts on China were productive of the same consequences as in Japan; they led to an exodus of Chinese students who in turn were the main influence in bringing about the present intellectual awakening of the youth of the country. In the middle nineties China's youth and a few of the more progressive national leaders came to realize the weakness and decadence of China; the easy victory of Japan and the increasing pressure by western nations for special privileges forced home the conviction that something fundamental must be done.

At first most of these eager inquirers went to nearby Japan, whose language was easier to learn, and whose living costs were lower; the popular cry in 1896 after the defeat of China by Japan, was "What Japan has done, China can do," and by 1906 some 12,000 Chinese students were studying in Japan. But many of these were unprepared for serious work in engineering, law, military science, medicine, and other exacting subjects, and of

the private schools started for their instruction a large number turned out to be merely for their exploitation; for this reason thousands of Chinese students left Japan. The following figures give the number of Chinese students in colleges and schools in the United States since 1898:

1898 — 6
1905 — 106
1906 — 300
1910 — 650
1914 — 847
1918 —1500[12]
1921–22—1255
1922–23—1507
1923–24—1467
1924–25—1561
1925–26—1317
1926–27—1298[13]
1927–28—figures unavailable
1928–29—1287[13]
1929–30—1263[14]

The steady increase until 1918 corresponds with the rising tide of interest in western ideas. The decline in the number of students in the United States since 1924–25 may be due to the increasing facilities for higher education in China, and to the growing conviction among educated Chinese that sending students abroad too young has a denationalizing influence whereas foreign study by graduate and experienced students is more fruitful.

Uses of Remitted Boxer Indemnities.

The chief single source of money by which students could be sent to America in recent years has been the American Boxer Indemnity Fund. In 1911 President Roosevelt procured the remission of $10,785,286.12 of the American share of the Boxer Indemnity Fund (originally $24,440,778.81), the proceeds of which were to be devoted to educational purposes in China and the send-

[12] Figures by Tsi C. Wang, *The Youth Movement in China* (New York, 1927), p. 67.

[13] Figures from the Institute of International Education.

[14] Figures from National Council of Y.M.C.A.

The figures from the different sources are not comparable.

ing of Chinese students to America; with this money, Tsing Hua College was founded. The first President, Tong Kai-son, himself a graduate of a New England high school, engaged a group of American high-school teachers to form the western division of his faculty in 1911, and Tsing Hua College became an American style preparatory school, educating young men, carefully chosen from all the provinces, for entrance into American colleges. Its present policy is that of sending only selected graduates for advanced study. This institution has, since 1928, become coeducational; from the first, a few women students selected by competitive examination were sent yearly to the United States, and now its women graduates are being sent on the same basis as men. Prior to 1928 all graduates of Tsing Hua had the right to go to the United States for further study, with their expenses paid, if they so desired. Since then, selection has been by competitive examinations which may be taken by anyone in China without reference to previous school attendance or sex. Tsing Hua graduates have no special privileges in these examinations.

On May 21, 1924, Congress authorized the remission of the balance of the Indemnity Fund, as from October 1, 1927. This amounted to $6,137,552.90. A special organization, the China Foundation for the Promotion of Education and Culture, with a self-perpetuating board of ten Chinese and five Americans, was formed to handle this money. This board, by action of the Chinese Government, has been made the trustee for that portion of the first American Boxer Indemnity remission (that of 1908) which is being set aside for a permanent endowment fund for Tsing Hua University. In the handling of its own funds, the China Foundation has concentrated on the promotion of scientific studies in the secondary schools and a program for the development of scientific research. The Foundation has a department of social research which has been conducting studies in the socio-economic field, and it makes grants to educational enterprises such as libraries and the Mass Education Movement. In the matter of Boxer Indemnity remission, several other Powers have followed, either in whole or in part, the example of the United States.

Effects of Western Education.

The marked effect in the political sphere of increasing western education first became evident in the abortive *coup d'état* of 1898. Influenced by a small group of scholars from Canton, men who were convinced that rapid and complete acceptance of western methods and ideas was the decadent nation's only hope, the young Emperor Kwang Hsu issued a series of edicts for the reorganization of the central government, and for financial, military, and judicial reforms. The movement was premature and represented only the desires of a few intellectuals; the time was not ripe for wholesale westernization.

The reactionary Empress Dowager and her State Council encouraged the Boxer Rebellion of 1900 which expressed in terms of violence the hostility of fanatical groups to aggressive westernization and exploitation. Its collapse and the ensuing severe penalties convinced the Empress and the leaders of the country alike that increasing contacts with the victorious western nations and modernized Japan were unavoidable and westernization inevitable if China, as a nation, were to survive; Japan's victory over Russia in 1904–1905 reinforced the reluctant conviction. To this was due the abolition in 1905 of the old examinations and the series of reform edicts of 1906, followed by the nine-year program of constitutional reform beginning in 1908.

But the new wine burst the old bottles. In spite of the promulgation of paper plans, the slowness and corruption of the decadent court and the impatience of the utopian revolutionaries made orderly and gradual change impossible; the Manchu court was eliminated by triangular negotiation between the Sun Yat-sen Nationalists, Yuan Shih-kai, and the imperial family, and the reform project collapsed.

Again in 1911–12 revolution failed to achieve any considerable success in its objective of thoroughgoing modernization because evolution in the interests, ideas, and attitudes of a people of fixed and ancient culture was not sufficiently rapid to support the complete political program of eager revolutionists. But through the complications and chaos of the next eight years the forces of industry, commerce, and education made ready for the awakening of

1919, when for the first time modernism gave evidence of having become indigenous, and for the political-social revolution of 1926–28 when the moderns took hold of the central machinery of government. In Nanking today practically every government office is in charge of modern-minded men, with a modern trained staff. So far as conscious direction goes, the entire government program can be said to be of a modern nature—with the one great exception of the military policy of the president. That the new public health rules, school system, fiscal system, labor laws (fully formulated) are not being put into effect, except in a limited area, should not discount the fact that the entire "set" of the government is now toward modernization. This is a tremendous fact and has the future with it. There is no appreciable desire in the country for a return to the monarchical form of government. None of the Nanking leaders wishes to go back to the old system, so far as general policy is concerned. The habits of graft, corruption, and the methods of the military war lords still control the action of many, but avowed policies and hopes are of another order; in the Ministry of Finance, for example, there has been a sincere effort to learn how Chinese finance can be modernized and standardized.

CHINA DECIDES TO MODERNIZE

Many historians have commented upon the uniformity of conditions, the similarity of grievances in the different regions of prerevolutionary France, as disclosed by the *cahiers* of the *parlements*. A similar uniformity existed in the Chinese communities until well into the nineteenth century and continues even today outside of the treaty ports, a few teaching centers, and similar areas where the newer influences have had an opportunity to impinge upon the old folkways. Such variations in custom as there were existed mainly because of basic racial or economic differences among the various parts of the country. Now that change in the multifarious aspects of the nation's life, whether benign or blighting, has begun, it meets varying degrees of resistance, finds varying channels for penetration, and proceeds at varying speeds.

The enthusiasm of Young China, not infrequently expressing itself in agitation against old evils with little consideration of the

specific steps by which these can be remedied but none the less lit and kept burning by a patriotic desire to see China noble and powerful, is one of the vital forces driving toward the modernization of China. The desire of the moneyed middle class, the gentry, in the cities as well as in the rural districts, for stability in politics and the opportunities for wider-reaching trade which modern communications and business methods give is another potentially powerful force toward modernization even though as yet the gentry are only beginning to assert themselves. The press, for all its venality and in spite of the widespread illiteracy, is a potent factor because it is a means by which many people in widely separated areas are set to thinking about the same things at the same time; and the establishment of telegraph service throughout the country, through which events in the principal centers are promptly reported, commented upon, and made significant for the nation rather than simply for the areas where they occur, is of almost incalculable value. The break-up of the older workers' guilds with the introduction of modern industry and the concentration of factory workers—many cut loose from their family ties by the conditions under which they must work—is still another vital factor, especially as these changes give the opportunity for spreading among the workers ideas of organization and labor conditions developed in the West. The western business man, with his new methods and his new commodities, and the western missionary, with his new conceptions of the value and rights of the individual, penetrating into the uttermost corners of the land, have contributed their share toward breaking up the crust of custom. The Chinese who have gone abroad to study or to work have come back with their contribution of new thoughts and attitudes. In every field of Chinese life, the leaven is working.

Protest and Reconstruction.

The most conspicuous expressions of a newly awakening national public opinion, especially as younger men, mostly students, have taken a prominent part in its formation, naturally run in the ancient molds of protest—protest against excesses at home, against foreign aggression and foreign privileges, "Down with

the Manchus," "Down with the Militarists," "Down with Foreign Imperialism," "Down with the Unequal Treaties," "Down with the dirty gentry and politicians." Other and newer voices protest against the ancient restrictions on individual freedom: "Down with the Conservatives," "Down with Communism," "Down with the old marriage customs"—even, in the case of one parade, "Down with Downing"—these are the confusing cries of an adolescent democracy which resound in the market places even while the beginnings of rebuilding are going on in the shops, the homes, and the schools. A new order must contend with, manage, or subdue if it can this normal impulse to extremes and shouting when a new vigor begins to fill the life of a nation, expressing itself in turmoil, hubbub, and disaffection whose undirected tendency is to make chips and splinters rather than hewn timbers.

Not all of those seeking to modernize China, however, are letting their impatience with old ways turn them to destruction only. Not a little of the reviving energy has gone into solid building. Modern banks, for example, have been organized and the bankers are finding their way to sound practices. Modern industry is beginning to get on its feet. Transportation facilities throughout the country are being materially improved by the establishment of motor bus services which build and use new roads. Schools, educational technique, and subject matter are being experimented with and reorganized to bring them more into line with modern needs.

Uneven Penetration.

The overcoming of the inertia of hundreds of millions requires more than Nationalist enthusiasm and decrees, and more than the work of comparatively few people over a few years. Laws on paper may nominally emancipate women and grant political equality with men, bobbed hair may become the rage among the girls in schools, some here and there may choose husbands for themselves in defiance of family and tradition—but the great mass of the Chinese women remain virtually untouched. Illiteracy, isolation, the bondage of ancient custom, and the daily and urgent necessity of working for each day's food shut off most of the men and

women, even in 1930, from the new privileges. Ancient, medieval, and modern co-exist inharmoniously in China today. Almost any question regarding the amount of change in any one respect—in the family system, governmental practices, economic life—can be answered only after the group or locality discussed has first been defined.

The students, free from the responsibilities of the more mature and from the necessity of earning a living, are the vocal spearhead of the penetration of new ideas; and their influence in China is materially enhanced by the ancient respect for the scholar. Close behind them in insisting upon the adoption of the new come the "returned students" who have been abroad, the younger business men and politicians in the port cities, the educators who have felt the newer impulses, the few workers who have risen to leadership among their fellows. These are concentrated in a few educational or business centers, chiefly near the coast; and even in those places their influence has not yet penetrated sufficiently into the thinking or the customs of the shopkeepers and peasants to bring about fundamental changes. In the more remote areas—back from the river valleys, up in the mountains, in the less accessible provinces of Szechwan, Kweichow, Yunnan, or Kansu, changes have been slight. Village government for the most part is still in the hands of the village elders. Marriages are still arranged by middlemen. Women remain in the home, have little interest outside it, and no information of events beyond the village horizon; the equality of the sexes and the emancipation of women are as unheard of as John Stuart Mill himself, and excite no interest.

In the intermediate area, where trade and commerce and new ideas have gone, change has taken place in a mottled, irregular manner. New commodities are made and traded in; new relations of the workers to one another and to their employers are developing; new forms of association between the merchants are being established. In the medicine shops will be found the old drugs—ginseng, ground deer's horn, wood-lice shells, monkeys' bones, and ground "dragons' teeth"—prescribed and sold by the old-style physicians and their druggist associates; but the vaccination of children is making headway and attention is being paid to the

purity of the water supplied for drinking. Among the students, of present and recent school generations, change is well-nigh complete so far as conscious mental attitude is concerned, even though the unconscious pullback of the old emotions, sympathies, and habits is still strong.

In speculation on theories of government or their application, in enthusiasm for experiment and change, Young China is taking the lead. Many of the young people are dogmatic, as reformers know how to be. But these Young Chinese, pushing themselves and their ideas—egregiously, the older generation is inclined to think—into public life, into political, commercial, banking, industrial, and educational pursuits, are combining western training, secured in China or abroad, with accumulating experience in adapting their knowledge to the needs of the present China situation, and consciously and unconsciously are indoctrinating China with the new knowledge and attitude. They call upon other peoples and governments for prompt understanding and coöperation, for something better than that belated revision of policy which they derisively call "post mortem first-aid," and they sometimes become impatient when their demands are not heeded quickly.

Confusion of Aim.

The young men and women in the port cities and the educational centers, while still only partially freed from the chrysalis of ancient tradition, repudiate the teachings of Confucius as imposing an unnecessary bondage upon political and social thought and action; those teachings, they say, have been one of the chief causes for the backwardness of China. Most of the young Chinese dream of complete freedom in choosing their wives or husbands and in selecting their own careers, and some are making those dreams come true. They oppose a monarchy although they are not satisfied with the present political *régime;* they believe in equal rights for men and women, and in the schools take coeducation as a matter of course. Few are adherents of the faiths of Buddhism or Taoism; most see no need for religion of any sort. The majority are moved by a sincere desire to work for their country's betterment, wish to see the lot of the common people improved, believe

that China should be freed from the bondage of the "unequal treaties" so that it may belong fully to the Chinese and foreigners have no special privileges. All this and more is expressing itself in an emotional as well as intellectual reaction against everything that savors of shackles, whether inherited from the older China or introduced from the West. The youth of other nations during similar periods of national readjustment have passed through similar stages; it is not surprising that Young China suffers from the neuroses of strain, from extravagancies of enthusiasm and fanaticism alternating with periods of discouragement. It is for the young a time of *Sturm und Drang* in which there is intense eagerness to discover the most direct path to immediate social and national reconstruction and to achieve a fuller and more satisfactory personal living. Confusion of aims and swift alteration, to the point of seeming instability, are among the inevitables of any revolutionary era.

The intellectual formulations given to the new impulses in China have changed with developments. The leaders of the first attempt to change governmental forms who succeeded in getting their hands actually on the reins of power—Liang Chi-chao and Kang Yu-wei who led in the preparation of the "reform edicts" of 1898—advocated constitutional monarchy with western-style democratic institutions, although Sun Yat-sen had already started his campaign for the complete overthrow of the Manchus and the establishment of a Republic. The Republic came in 1911, but the grip of the older officials, with Yuan Shih-kai at their head, kept things moving substantially in the old grooves, and not until 1916 and 1917 did the revival of spirit begin to sweep away the hopelessness which had overcome the younger men following the bursting of their dream bubbles by the realities of the situation. Then the attack on the old began along new lines and with a broader understanding. It was realized by a few whose views have steadily spread that a change in the forms of government was not enough; that the fundamental attitude of mind of the people must be altered.

Thus Chen Tu-hsiu, a returned student from France, and his associates launched their magazine *La Jeunesse* in 1916 and

opened the campaign against Confucianism, arguing that the teachings of the sage were essentially faulty because (1) filial piety involved the idea of a double ethical standard; (2) women were enslaved to their men-folk, and the emancipation of women is necessary. "Confucianism must be eliminated or China might just as well be under an autocratic government," said Chen. By the introduction of democracy and science, the leaders said, China can be saved and properly controlled. The old customs and ideas must be weighed critically, and theories from the West are to be examined and introduced as they can contribute to China's needs. The problems which are to be investigated lie in the social, political, religious, and literary fields.

Spreading Knowledge.

Dr. Hu Shih, while a student in the United States in 1914–16, initiated steps toward the substitution of the colloquial spoken language for the ancient literary forms as the literary means appropriate to the modern day. After his return to China, he and others who thought along the same line launched a campaign of writing and speaking in favor of the use of "Pei Hua" or colloquial, and to prove that it could be as acceptable a literary medium as the ancient language they proceeded to write poems, essays, and historical and critical works of high quality in the vernacular. Now most of the newspapers and magazines in China use Pei Hua instead of the old literary language, and recently, the Ministry of Education, headed by Chiang Mon-lin, formerly acting Chancellor of the National University at Peking, has put itself behind the campaign for the use of Pei Hua in all writing; it has ruled that this shall be taught instead of the old literary Chinese in all the primary schools, and it has succeeded in securing a formal government order that all official documents shall be in Pei Hua. The change is comparable to, though in some ways more significant than, that brought about by Chaucer in the use of colloquial English as a literary medium instead of Latin.

Along with this effort to bring the written and spoken languages closer together by purely literary works has gone much translation from standard western books on philosophy, social

questions, economics, politics, etc. The older Chinese classics, too, have been put into the colloquial. Recently as a step toward increasing the opportunities of the people throughout the country for contact with western as well as Chinese thought, the Commercial Press of Shanghai (an enterprise financed, managed, and staffed by Chinese which has developed into one of the great publishing houses of the Far East) published a library of two thousand volumes of the world's masterpieces, all in Pei Hua. This monumental compilation brings to the Chinese, in the vernacular, the works of such western writers as Plato, Aristotle, Hume, Spinoza, Descartes, Schopenhauer, Nietzsche, James, Dewey, Bergson, Homer, Dante, Cervantes, Shakespeare, Milton, Molière, Swift, Goethe, Schiller, Turgenieff, Tolstoy, Hugo, Hauptmann, and Shaw. One hundred volumes are devoted to the Chinese classics, one hundred to foreign literary masterpieces, eighty to history and geography, fifty to agriculture, thirty to medical science, thirty to mathematics, and thirty to an encyclopedia. The total set is sold for approximately $100 (gold), so that a complete library can be bought by persons of moderate means. A number of provincial governments are buying sets for each county, and each ship of the Chinese navy is to have one.

The desire to bring new opportunities to the common people found one significant expression in another movement, that for mass education which has been led by James Y. C. Yen. Mr. Yen and his associates, on the basis of studies of current newspapers, magazines, books, and other publications, grouped the Chinese characters in the order of frequence of use. They found that approximately one thousand were used much more often than the rest, and that these thousand were enough to provide means of written communication for ordinary needs. They prepared four simple "readers" (which have been revised from time to time) for teaching these thousand characters, and worked out teaching methods by which even untutored peasants and workmen could learn them by spending an hour a day for four months. The movement took hold quickly and has spread throughout the country. As a result well over two million men, women, and children who would otherwise have remained illiterate have learned to read.

Education.

After the excursus of Chinese students to learn the ways of the West had become an established practice, the demand for change penetrated the Forbidden City, and in 1905 an edict was issued abolishing the old examination system and creating a Ministry of Education. The conception of education as existing solely to preserve the cultural heritage was giving way to the modern conception of education which looked to the future of the individual and of society. The new plan of school organization provided for elementary teaching of arithmetic, geography, history, elementary hygiene, etc., though the study of literary Chinese was retained. An ambitious program for higher education, general and technical, was mapped out.

By 1912 the new Republic was stressing educational changes in the direction of democracy, the enlargement of school facilities, the introduction of coeducation, and the elimination of the ancient classics. Ten years later the modern schools numbered some 180,000 with more than 7,000,000 pupils, besides the 10,000 missionary schools with their 360,000 pupils, and the many private schools maintained by temples or families, and others concerning which no statistics are to be had. On the basis of textbooks sold, the editor of the Commercial Press estimated that in 1928 there were 12,000,000 pupils in modern schools out of 20,000,000 in the schools of all types.

Meanwhile the development of higher education had gone forward. For many years the National University at Peking drew students from all parts of China and from Chinese communities all over the world, and on its faculty were the intellectual leaders of the country. Nan Kai, at Tientsin, starting as a small middle school in 1907, developed as a private institution until three years ago it had established a college department. A Chinese who had made millions in trade in the South Seas, nine years ago established a university in his home city of Amoy. Less striking schools, also under purely private Chinese control, have been founded in various centers. Governmental universities, higher normal schools, agricultural colleges, law colleges, and other special educational institutions were opened in Peking, Tientsin, Shanghai, Nanking,

Hankow, Canton, Mukden, and other cities. Tsing Hua College, founded in 1911, continued to develop with the aid of American Boxer indemnity remissions.

Side by side with these Chinese institutions, the various missionary organizations, individually or in coöperation, created and developed colleges and universities, such as Yenching at Peking, Cheeloo at Tsinan, Shanghai Christian College, Nanking University, Boone University at Hankow, and Canton Christian College (now Lingnan University).

During these years, too, studies and experiments in educational methods and subject matter were being made. The Mass Education Movement tried to teach a necessary minimum of reading knowledge to the masses. The National Educational Association and related bodies studied how to have a uniform spoken language taught in the primary schools so that the whole country might have one dialect, and worked out a series of elementary textbooks which could be and in large measure were put into use throughout the country. The China Foundation for the Promotion of Education and Culture (financed with American Boxer indemnity remissions) concentrated on improving the teaching of the natural sciences. Geological surveys and research institutes of various sorts undertook the task of a scientific study of China's resources and needs.

The Nationalists, since they came into power, have continued the previous interest in education. They have promulgated laws requiring all schools to register with the Government, and providing that to secure such registration the head of each school must be a Chinese (this was a move to bring the missionary schools within the scope of Chinese regulation; having made the gesture, however, the Government has interfered very little with the actual administration of the missionary schools). For the higher state schools, the Government has been providing funds, not in large amounts but at least regularly so that some sort of planning has been possible.

Educational facilities in China are still far from adequate. Even a liberal estimate gives not more than 5 per cent of the children in primary schools, and a pitifully small number in the sec-

ondary schools and colleges. But a comparison with the situation ten years ago shows that progress has been made.

Largely in connection with the schools, and at first chiefly in the missionary colleges, modern athletics have taken a strong hold in China. Elsewhere this would be noticeable only as an item of internal interest; in China it is a striking element in the process of westernization, representing a vital change from the old customs according to which anyone aspiring to the title of gentleman indulged as little as possible in physical exercise. From a small beginning some fifteen years ago, a national athletic federation has grown until its membership includes representatives from practically all the colleges and universities, many non-school athletic clubs of various sorts, and some army groups. Under its auspices athletic meets drawing competitors from all parts of the country are held every year; the one at Mukden in 1929 had almost 2,000 participants; that at Hangchow in 1930 drew fully as many, and over 10,000 people turned out to watch events on the opening day, many coming from Shanghai and Nanking. China has participated with fair success in the last two Far Eastern Olympics and a new spirit of sportsmanship and team coöperation is also being developed.

Labor.

Industrial development, particularly in the principal port cities—Shanghai, Hankow, Canton, and Tientsin—has been paralleled by agitation by laborers, not infrequently stirred up by students and other "intellectuals," for more wages, shorter hours, and better working conditions. Unions of various sorts have been formed, chiefly in the larger port cities. Most of these have been of the occupational sort, such as the railway men's union, the seamen's union, the filature workers' union, and in spite of the introduction of certain new ideas as to forms of organization and purpose the tendency has been for these unions to develop along the lines of the old craft guilds in so far as they have achieved any permanence.

Agitation and strikes by laborers were used by the Kuomintang leaders as a weapon in China's international relations at various

times, particularly during the period of the Nationalist advance northward from 1925 to 1928. Prior to that, however, the great seamen's strike at Canton in 1923, which in origin and continuation was essentially a political attack on British interests at Hong-kong, had brought labor agitation into the political field. The Shanghai Incident of May 30, 1925, was followed by further agitation among and by the workers for political rather than economic purposes, and the labor troubles at Hankow, Shanghai, Peking, Tientsin, and along the railways in 1926–28 were partly the result of agitation by Kuomintang workers seeking to create difficulties for the anti-Nationalist authorities or to spread Communist propaganda.

The workers apparently went into the strikes and demonstrations with the naïve belief that they could ask anything they wanted in the way of wage increases and shorter hours, and the employers would meet their demands. The demands, however, in many cases were so exorbitant that shops and factories simply shut down, being unable to give what was asked, with the result that hundreds of thousands of workers who had been filled by Communist agitators with dreams of easy and luxurious living at the expense of the "capitalists" found themselves without any work. The disillusionment which followed was a sharp setback to the development of the labor movement, and also contributed not a little to the reaction against Russian influence in China. Strikes continued in 1928 and 1929, but the demands in the main were more reasonable and the motives behind the strikes more purely economic. The number and seriousness of the strikes also decreased; Shanghai in 1927, for example, had 136 strikes with a total of 2,870,927 days lost, while in 1928 there were 114 strikes involving a loss of 1,445,062 working days.[15]

While the Nationalist party organization, the Kuomintang, worked with and helped develop the General Labor Union in 1925 and 1926, when the break between the radicals and the moderates in the Nationalist ranks came after the Nanking Incident of March, 1927, the Nationalist government turned strongly against the Union chiefly because the Government was controlled by the

[15] Report of the Municipal Council.

moderates and the Union by the Communists. A clash occurred at Shanghai in April, 1927, in which government soldiers and police shot down many workers, and a policy of suppression of labor unions of all sorts was carried out for a time. This aroused some criticism, but was successful in putting an end to the efforts of the radicals to use labor agitation for political purposes, in part at least because the laborers themselves had lost confidence in such agitation as a means of improving their lot.

With the further industrialization of China, however, the labor movement will continue to grow. In many cases the new industry is marked by appalling conditions involving long hours, women's and children's labor, low wages, barracking of laborers. The factories, too, are breaking up the older family system and thus undermining one of the chief stabilizing elements in China. The older guilds also are dissolving. Serious efforts are being made, by those concerned over the inhumane conditions in many of the factories, to help China through the period of industrialization without the catastrophic cost in human life and suffering which marked the beginning of the industrial system in the West.

Religion.

One of the directions in which the protest of Young China against traditions showed itself was in the development of a movement against religions of all sorts, which, beginning in 1922 and continuing for a year or two, took on a specifically anti-Christian character. Religion was called "an opiate to the mind," and the Christian missionaries were branded as the advance agents of foreign imperialism. Some of the more philosophically minded, like Dr. Hu Shih, argued against this attack on religion as contrary to the spirit of philosophical toleration. Nevertheless, in 1922, 1923, and 1924 there were various attacks on Buddhist and Taoist temples as well as on Christian property, and considerable agitation by fiery youngsters in favor of "free thinking."

The antireligion movement has now quieted down. But it has had several significant effects: it materially strengthened the hands of those in official and educational circles who wanted to see religious teaching removed from the category of compulsory

subjects in the Christian missionary schools, for example, and enabled them to carry the point that all schools must register with the Government and make religious training elective. The anti-religion movement also stirred to new life the leaders of the various religions; a vigorous movement for the modernization and purification of Buddhism was started; the Chinese Christians pushed forward the plans for a purely Chinese Christian church which would be independent of western denominational influence or financial support and for a restatement of the basic Christian doctrines in terms of Chinese life and thought; the Confucianists and Taoists were also stirred to new activity, though their reformation movements have not become nearly so vigorous as those of the Buddhists.

Communism.

Among the influences of considerable weight in the period of the Nationalist advance northward from Canton to the Yangtze Valley was the Russian-inspired and organized radical element in the Nationalist ranks. Even before Sun Yat-sen turned to the Russians in 1923 for the help they were ready to give in financing and organizing the revolutionary movement which he was leading—help which he was ready to take not because he believed in Communism but because he was willing to use any assistance he could find in promoting his cause, help which the Russians were ready to give because they thought they could control the Nationalist organization—a few of the intellectuals in China had announced their faith in Communism as offering the solution of China's problems. Communism, however, did not become a vital factor until the Russians appeared on the scene.

First through representatives of the temporary Far Eastern Republic of Siberia and then through men accredited directly from Moscow, the Russian Communist leaders had been seeking a foothold in China for the campaign of world revolution. They played both with the northern government at Peking and with Sun Yat-sen and the Kuomintang at Canton. Their agents assisted in the training of the Nationalist armies which started north from Canton under Chiang Kai-shek's command in 1925, and they fur-

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nished some of the arms and funds for that drive. Young Chinese trained by them in Communist propaganda methods and doctrines —some working from honest conviction and others merely for money—went in advance of the armies or along with them, spreading ideas of revolt against the established order. At the same time, Communist agents were securing and developing contacts with the students and workers in other parts of the country, particularly in the educational centers such as Peking and Shanghai. To these young men and to the ignorant laborers, the promises held out of a new heaven and a new earth were alluring. The Chinese Communist party, which prior to the time of its affiliation with the Kuomintang in 1924 had been a small debating society of intellectuals, increased enormously in membership and became the propagandist Left Wing of the Nationalist movement. The more conservative Nationalist leaders, however, after Sun Yat-sen's death in 1925, fell out of sympathy with the radicals. Each side, for its own advantage, avoided an open break until the Nationalist armies had reached Shanghai early in 1927. Then the radicals staged the Nanking incident of March 24 of that year, in which foreign consuls, missionaries, and business men and their properties were deliberately attacked by troops under control. The purpose was clearly not to kill the foreigners—only six all together were killed, although practically every one might have been massacred before protective steps could be taken—but to provoke reprisals from the foreign warships at anchor in the river. Events and subsequent statements of those concerned made it clear that the affair was not antiforeign like the Boxer uprising of 1900; the foreigners in Nanking were simply pawns, being handled roughly in the expectation that the foreign governments would take vigorous reprisal measures which would bring about a wave of antiforeignism throughout the country on the crest of which the radicals could sweep into complete control of the Nationalist organization. The foreign armed and diplomatic agents were notably restrained; the feeling of the country turned to bitterness against those responsible for what was called a disgraceful blot on China's good name; the position of the moderates was materially strengthened; very soon thereafter relations with Russia

were broken off and Russian consular and other officials were sent out of the country; a vigorous campaign against Communism and radical agitation was launched in which several thousand of the young enthusiasts whose main fault had been too much zeal were executed.

The Communist party was suppressed and open Communist agitation stopped. Communism as an economic and political system for China has difficulty in making headway against the mass of small property holdings, the age-old necessity for every family or economic group holding fast to all possible means of obtaining a livelihood. The economic disturbances and agitation since the break with Russia, though frequently called "Communistic," have come in part from the causes that created the fourteenth-century *Jacquerie* and in part from the causes that brought on disturbances in England at the beginning of the Industrial Revolution. Yet in spite of the fact that disillusionment and fear have done much to check the outspokenness of Young China, radical revolutionary feeling is still strong, and there is also much dissatisfaction of a purely Chinese character with military and dictatorial methods foreign to the Chinese philosophy of personal and social conduct, with dilatoriness in ushering in the new political and economic era, and with the failure to eliminate intrigue and corruption from the Government.

The Students.

Young China in school—the students in the colleges and to a certain extent in the secondary schools—has played a large part in giving vocal formulation to protests, and in supplying enthusiasm to the revolutionary movement. Students by thousands flocked to the Republican banners in 1911 and 1912, and most of the leaders now prominent were among those who had one sort of share or another in the skirmishing in the military and political arenas at that time. In 1919 the students, inspired and advised by not a few of their teachers, headed the agitation which kept China from signing the Versailles Peace Treaty because of its acceptance of Japanese control of Shantung, and forced the Cabinet at

Peking to dismiss three of the notoriously pro-Japanese ministers. Students figured prominently in the May 30 incident of 1925 in Shanghai and in the agitation which followed; they started the anti-Japanese boycott of 1927–28 and kept it going as long as it was a really effective movement; thousands of them left their schools to join the Nationalist armies during the drive northward. For several years political developments and the part they, as students, might play in ushering in the new era for China absorbed far more of the attention of many of the young men and women than did their studies. In the last year or two, much of this student activity in the political field, and much of the agitation in the schools, has died down. Even though the enthusiasm of the young people was inadequately tempered by experience, and many things were done which the students themselves later recognized were harmful or foolish, the "student movement" showed that China possesses in its young people a reservoir of reconstructive power.

Political Evolution.

In the more specifically political field, the desire to modernize China, which first came to the surface in 1898, has been groping its way forward toward coherence and realism. The 1898 reformers, young men with little practical experience working through a young emperor who had just come to the throne, sought to remake China overnight by a series of edicts, which, however sound in theory, ignored the antiquity and sluggishness of China's social and political organization. They failed because they tried to do too much too suddenly.

Sun Yat-sen and his associates in 1911–12 thought that political and social regeneration could be secured at a stroke by adopting a form of government modeled on the youngest of the western republics, France. Although the Empire was overthrown, and the governmental system became nominally republican, the essentials of the old system remained. When the time came for setting up a new government after the Nationalist armies had taken Peking in June, 1928, the men who were then leading the Nationalist or-

ganization were more politically experienced. Seeing that China was not ready for democracy and impressed with the success of Sovietism and Fascism, they set up a dictatorship for a "period of tutelage."

The Kuomintang or Nationalist party, a continuation of the revolutionary group that had centered around Sun Yat-sen's efforts for the overthrow of the Manchus, assumed this dictatorship. The party which had undergone several reorganizations in 1924, took on, under the influence of the Russians during the Canton sessions of the National Kuomintang Congress, substantially its present form which is modeled partly on the Soviet system and partly on the old Chinese guild system and the practice of committee rule in guild and village. In October, 1928, the Central Executive committee of the Kuomintang announced the Organic Law of the Nationalist government, giving control of the administrative, legislative, and judicial machinery to a State Council under which were five "Yüan" or departments—executive, legislative, judicial, examination (in substance a civil service board), and control (an auditing and general supervisory board). The Chairman of the State Council was made commander-in-chief of the armed forces and head of the State for diplomatic purposes. Acts of the State Council or of any of its subordinate officers or its officials were to be subject to review by the Central Executive Committee of the National Congress of the Kuomintang.

This compromise between those who wanted centralized and efficient power and decentralization suitable to the area of the country, the lack of communications, and the variety of differing interests, was an acceptance of the fact that China was unready for democracy. No provision was made for the election of officers by any vote except that of the Central Executive Committee of the Kuomintang, nor was any term of years specified for holding office. The end of the "period of tutelage" was set for 1935, on the assumption that the people would then be sufficiently familiar with self-government to exercise a substantial measure of political control. Meanwhile the Government remains a dictatorship by the Kuomintang.

The Kuomintang.

The ultimate control of the Kuomintang rests in theory with the individual members. Kuomintang branches, established in the principal cities and in some of the county seats, focus, according to the paper organization, in the provincial organizations, and these in turn in the Central Executive Committee; at Nanking this last has a Standing Committee which is supposed to be in more or less constant session. The rules prescribe a biennial National Congress of the Kuomintang, composed of delegations from the branch organizations whose duty it is to elect the Central Executive Committee, review actions during the previous two years, and lay down general policies for the next period. The Fourth Congress was held in March, 1930.

In practice the control of the Kuomintang has lain with a small group of men who have dominated the Central Executive Committee and through that the Congresses. Most of the active members of the Central Executive Committee of the Kuomintang, too, are members of the State Council or its subordinate agencies, so that while Party and Government are separate in theory, the directorates are interlocking and the distinction is more nominal than real.

In the last few years the activities of many Kuomintang members in the small branches and in some of the provincial organizations have caused an observer who is in close touch with political developments in China to say:

> Everywhere Chinese much more than foreigners have suffered from the tyranny of the "Tang Pu" (Kuomintang District Party Headquarters). It is not the big men of the Kuomintang who are responsible for the difficulties which beset the people, it is these little party representatives, these very small people, who seem to be making a good thing out of party activities.[16]

The irritation thus aroused in many parts of the country has impaired the general standing of the party, and has contributed to an increasing dissatisfaction with the Nanking administration,

[16] *China Year Book* (1929–30).

which has not yet been overtaken by the counter-efforts of the party leaders.

Out of Medievalism.

In these and many other ways—social, educational, economic, political—China is trying to modernize itself. Only a small part of the people has been so touched by the newer impulses, which were planted from the West and are beginning to find root in China, as to feel any personal responsibility for taking a share in the work of readjustment. No clear vision of the problem and of the part which reconstruction in each field should play in the remaking of the whole has yet been developed. The country is huge and ancient and disorganized, without traditions of unity in terms of the nation as a whole, with utterly inadequate communications, and a staggering load of illiteracy, poverty, and isolation-bred conservatism. Against these things let it be remembered that the modern West has spent five hundred years in lifting itself from a level not unlike that of China a quarter of a century ago. China has the stimulus, the example, and the experience of the West as aid in working out its problems, but the process of passing from medievalism into a new type of order and stability is likely to require years running into decades.

In the main, the driving force and the leadership in the changes came until recent years from the West, through the missionaries and the business men who went to China and through the western schools attended by Chinese. Whatever the West may still furnish by way of example—of what not to do as well as of what to do—the Chinese themselves have now definitely taken in hand the task of rebuilding their country. The foreigner will have a place as assistant, as advisor, as trade intermediary, but will no longer hold the place of moral or financial or diplomatic authority which has been his in the past. For good or ill, the Chinese have taken charge of the modernizing of China.

IN AMERICA

The American press has neglected the Orient as a news center; in fact much of the news about Far Eastern happenings used to

come to the United States from Europe. With the growth of American political and economic activity abroad, this condition has changed to some extent, and there is a tendency in the metropolitan press at least to anticipate rather than to follow expansion of American interests. From an approximate total of 16,500 words cabled from Japan and China in 1913 to the *New York Times*, the number increased to 96,471 in 1928, and 106,218 in 1929 of which 65,891 were from China and 40,327 from Japan.

But there is little prospect in the near future that the Far East will be brought as close to America's doors as Europe. For one thing the cost of sending messages shows a wide disparity. News of happenings in London can be sent to the United States for five cents a word; the charge for dispatches from Japan is twenty-two cents a word, reduced to thirteen cents on a deferred press rate; from Hong-kong, eighteen cents and from Shanghai, sixteen cents. As a result of these high charges dispatches from the Orient are bound to suffer even more from abbreviation than do those from Europe, and only the striking items of oriental news are transmitted—social disasters and the repeated crises of eastern politics. The same love of the sensational is played up to in domestic "news," but it is more serious in the case of foreign news, for the reader hears and knows less of the normal processes of gradual change. Informed comment by editorial and special writers may meet the situation, and in so far as the Far East is concerned the practice of sending newspaper commentators periodically on tour is increasing the possibilities of interpretation. Institutions have lately collaborated with the newspapers. In 1929, for instance, the Carnegie Endowment for Peace conducted a party of writers attached to the leading American newspapers throughout the countries of the Far East where they were given facilities for absorbing the background of the new problems with which eastern peoples are now faced. These tendencies are helpful in removing the fog of misunderstanding which prevails in the United States in respect of China and its constantly fluctuating conditions.

Helpful also in reducing misunderstanding are the growing number of conferences on eastern subjects in the United States, the international conferences of the nations bordering on the Pa-

cific, the increasing study of the Far East in American colleges, and the coming of prominent Chinese to explain their own civilization in America. One of the first conferences on the Far East to be held in America was the meeting under the leadership of Professor Blakeslee at Clark University in 1909. In a series of later conferences, China and the Far East have frequently been discussed by competent students of the Orient. The same subjects have often been treated by Chinese, Japanese, and Americans at the yearly conferences of the Institute of Politics at Williamstown, and more recently at Washington University, Seattle, at the University of Chicago, and at a conference held at Johns Hopkins University in 1929 by representatives of business, labor, civic associations, churches, missions, universities, and the press. The oldest of the associations calling together the delegates of the peoples living in the Pacific area was the Pan-Pacific Union, under the leadership of Alexander Hume Ford, an American living in Honolulu. The Union has held a number of conferences in Honolulu on various subjects ranging from the press to food resources and education.

Institute of Pacific Relations.

The Institute of Pacific Relations, composed of private citizens of most of the important countries bordering on the Pacific Ocean or concerned in the problems arising out of the contacts of that area, aims by research and by discussion to discover the facts relevant to those problems and to consider possible solutions or ameliorations for them. The first conference, held at Honolulu in July, 1925, considered issues involved in migration and immigration, those growing out of international commercial and industrial relationships, and those created by religious, ethical, and cultural contacts. At the second conference, two years later, the main topics discussed were population and food supply in the Pacific area, Pacific mandates, international education and communication, foreign missions and Pacific relations, industrialization and foreign investments, diplomatic relations in the Pacific area, and migration in the Pacific. The third conference was held in Kyoto, the ancient imperial city of Japan, in October and November,

1929. There were delegations from Japan, the United States, China, Canada, England, Australia, New Zealand, and groups from the Philippines and from Korea. In addition there were observers from the U. S. S. R., France, the Netherlands, Mexico, the Dutch East Indies, the League of Nations, and the International Labour Office. The subjects discussed were:

1. The Machine Age and Traditional Culture.
2. Food and Population in the Pacific.
3. Industrialization in the Pacific countries.
4. China's Foreign Relations—Extraterritoriality.
5. China's Foreign Relations—Concessions and Settlements.
6. The Financial Reconstruction of China.
7. The Problems of Manchuria.
8. Diplomatic Relations in the Pacific.

According to the custom of these conferences no votes were taken at Kyoto, no resolutions offered, but at the conclusion of the conference Chinese and Japanese delegates were considering the problems of Manchuria in an effort to harmonize Chinese political interests and Japanese economic interests in that region, and plans were under discussion for a *rapprochement* between the ambitions of the Chinese Government to establish Chinese sovereignty over the foreign "settlements" and the responsibility of the Shanghai Municipal Council for the protection of the interests of the foreigners in that wealthy and well-administered municipality.

Increasing Study of Oriental Affairs.

The curricula of a few American educational institutions show a developing interest in oriental affairs.[17] The Departments of Chinese at Columbia University and at the University of California are centers of oriental research. The Harvard-Yenching Institute of Chinese Studies, with branches at Peking and Cambridge, has the unique feature of a close organic connection between a group of scholars, Chinese and American, studying in two countries China's past culture and present situation. The Page School of International Relations at Johns Hopkins University,

[17] See E. C. Carter, *China and Japan in Our University Curricula* (1929).

and the Princeton School of Public and International Affairs, announced February 22, 1930, will both give attention to the contemporary industrial, commercial, political, and diplomatic questions of the Far East.

Eastern and Western Culture.

It is natural that there should be two schools of thought as to the relative "values" of eastern and western culture. Ku Hung-ming, a brilliant advocate of the old ways in China, who studied with Carlyle in England and who voiced, up to the time of his recent death, the views of many conservative Chinese, believes that in the ancient eastern culture are social and personal values far higher than those offered by the West—values which it would be lamentable to lose through the attrition of the more aggressive and less subtle civilization. Self-conquest is better than outward achievement; a love of simplicity is finer than a desire for complexity and variety; harmony by compromise and the maintenance of peaceful relations makes for happiness more than does the use of competitive force or a regulation of personal relations by rigid principles of law or legal combats. In the East, he says, there is an organic spiritual philosophy of nature which represents love of nature, while in the West the attitude toward nature is one of naturalistic analysis, of the objective noting of fact, which is indifferent to the values that reflective absorption in nature arouses. Such observations are not confined to Orientals; philosophically-minded westerners have often remarked that the common element of the East is the development of a profundity of soul as opposed to the restless mechanization and rationalization of life in the West. The Chinese *Geist* demands the creation of harmony between the external and the internal. The parable form of the idea describes a priest of the hills, whose life, though he fasted and lived only for the people around him, left him with a strange feeling of dissatisfaction. One day when he was sweeping the earth floor of his hut with his broom of willow withes, a bamboo upright, struck by a pebble, gave forth a note of music, and this sound brought about the harmony between external and internal which had hitherto been wanting for him. To this ideal of

personal inner harmony corresponds an ideal of harmony in the organization of society.

The leader of the Renaissance Movement, Dr. Hu Shih, on the other hand, does not scruple to ridicule the idea that the ancient culture of China in its present form is spiritual and that western civilization is materialistic. For him the people who are truly materialistic are those who toil incessantly with their unaided hands, feet, and backs without being able to earn more than a bare subsistence, under masters who compel men to do the work of beasts. He declares boldly that "a civilization to be worthy of its name must be built upon the foundation of material progress," that "new civilization was given the religion of self-reliance as contrasted with the religion of defeatism," and that by relieving human energy from the unnecessary hardships of life and providing for it the necessary conditions for happiness, modern technology has produced spiritual results. Chinese culture cannot deal with the problems of poverty, disease, ignorance, and corruption. It is Dr. Hu's belief, based on the experience of Japan in strengthening its indigenous culture with the new culture and the prosperity which the civilization of science and industry has made possible, that what is best and most valuable in Chinese culture will not be lost by the cross-fertilization of the old with the new.[18]

The realization of the vision lies, perhaps, far in the future, to be attained by the travail of increasing contacts, and an appreciation of the fact that the community of needs and of interests demands coöperation instead of attrition and conflict.

[18] January 24, 1930, Address, The Cultural Conflict in China, delivered before the American Association of University Women; *The Week in China,* February 8, 1930, pp. 135–139.

CHAPTER THREE

POST-WAR PACIFIC DIPLOMACY

THE WASHINGTON CONFERENCE

BY the summer of 1921 the international situation with reference particularly to the Far East was such as to warrant, if not to demand, a conference of the Pacific and Far Eastern Powers. First, there was the Anglo-Japanese Alliance, which was to expire in July, and though the law officers of the British Crown advised that without specific renewal it would continue year by year until denounced, the new circumstances of the times made the consideration of renewal or abrogation by the contracting parties seem necessary.

The Anglo-Japanese Alliance.

The Alliance was made for the protection of India and Manchuria against the Russian advance. In the treaty of 1902 Japan sought freedom from interference in a war with Russia which it seemed to regard as inevitable. "If Japan had not secured an alliance with Great Britain, she would have sought, and probably obtained, an alliance with Germany";[1] Great Britain's naval forces were its best guarantor; Germany's military forces would be its second best. The revised treaty of August 12, 1905, insured Japan against a Russian war of reprisal and expedited the signing of the Portsmouth peace treaty on September 5.[2]

The Anglo-Japanese Alliance was not intended to operate against the United States. In 1911, in view of the steady British orientation toward the United States, this provision was added in the third treaty:

> Should either high contracting party conclude a treaty of general arbitration with a third power, it is agreed that nothing in this agreement shall entail upon such contracting party an obligation to go to war with the power with whom such treaty of arbitration is in force.

[1] Sir Frank Fox, *The Mastery of the Pacific,* p. 231.
[2] See A. L. P. Dennis, *The Anglo-Japanese Alliance,* p. 23.

The British intended that this clause should be implemented by an arbitration treaty between Great Britain and the United States, then in negotiation, but this failed of approval in the Senate. So anxious was the British Government to avoid making any alliance that might seem directed against the United States, however, that it notified Japan that it would regard the Anglo-American Peace Commission Treaty of 1914 as coming within the exemption clause. This was accepted by Japan,[3] and no objection was made in the United States. Subject to the interpretation, the 1911 revision seemed to please all parties in England as well as the Dominions. This revision dropped out all mention of Korea, annexed by the Japanese in 1910, whose independence had been recognized by the treaty of 1902.

But the disappearance of Russia in the World War as a military force left the Alliance without definite aim. As traditionally all such alliances have a definite aim, speculation naturally put next among the objectives the country with which Japan at the moment seemed most likely to become embroiled, i.e., the United States. The reasoning was unsound but of the popular type.

The British began to feel uneasy. The revision of 1905 required either country to come to the aid of the other whenever attacked by a single Power, and opinion became general in Great Britain and the Dominions that because of India and of European complications free Britain had tied itself to a militarist Power and was abetting that Power's imperialistic ambitions. The Twenty-one Demands on China were made when the British Empire was fighting for its existence and in disregard of the spirit of the Treaty; another cause of disquiet was that at the same time Japan was trying to keep China from entering the World War. "Japan," said Ishii, "could not view without apprehension the moral awakening of 400,000,000 Chinese which would result from their entering the war."[4]

This Japanese militarism also earned suspicion on the part of both Great Britain and the United States because of the ambitions which it manifested during the joint expedition[5] in Siberia.

[3] *Ibid.*, p. 60.
[4] Edward T. Williams, *China Yesterday and Today* (4th ed.), p. 595.
[5] See pp. 60–63.

It was realized that no power existed in Japan short of an overwhelming expression of public opinion to restrain the army and the navy because those services were not responsible either to Parliament or Cabinet. The formation of public opinion against militarism was checked by propaganda to the effect that vigorous and prompt measures by Japan were necessary to forestall American and British economic activity in Manchuria. The effect of the Alliance on the United States, and British reflection on the position into which the British Government might be brought *vis-à-vis* the United States, even though the exemption clause in the Treaty might avoid the necessity of redeeming the Alliance in the direct military sense, increased therefore the British feeling of discomfort.

Besides, the Alliance was becoming unbalanced—as most alliances do. The risks resting on Great Britain were far greater than those on Japan. Great Britain, in fear of injuring Japanese susceptibilities, found increasing awkwardness in not being able to range itself with the United States on issues of the Pacific. Dominion Prime Ministers—Hughes, Massey, and Meighen—and leading Dominion journals, no friends of *rapprochement* with Orientals (on account of immigration policies), inveighed against a renewal of the Alliance. British liberals joined in the agitation, though for a different reason. General Smuts said at the Imperial Conference of 1921 in London: "To my mind it seems clear that the only path of safety for the British Empire is a path on which she can walk together with America." Moreover, the belief gained ground that the Covenant of the League gave Great Britain all the protection which had been afforded by the Alliance. The Alliance had obviously lived out its destiny, and

> no alliance can stand motionless. To live and to remain effective it must march with events and be quick to catch new currents of air in international life and thought.[6]

This Alliance, then, and the nexus of designs which had clustered around it, along with the offensive-defensive problems of the western Pacific—fortifications and naval bases which threatened

[6] Dennis, *op. cit.*, p. 97.

Japanese or Philippine security, the relations of Great Britain at Singapore and Hong-kong and of Australia and New Zealand to the United States and Japan respectively, Japanese aims in China and in particular in Manchuria—these were the issues much more than limitation of naval armaments that needed liquidation and that produced the Washington Conference. Indeed, as has been pointed out again and again, the limitation of armaments achieved by the Conference became possible only as a result of political agreements which reduced the apprehension of danger and persuaded the respective nations that their primary aim of national security could be obtained by agreement and might even be endangered by competition in the building of fleets and fortifications.

The informal inquiry addressed to the principal Pacific Powers went as far as international etiquette would permit in bringing these questions, which involved the alliance of two friendly Powers, before the Conference. The position of Japan, receiving this invitation, was therefore manifestly difficult. It was a new great Power, inexperienced and subject to suspicion. It was vitally interested in the area where grave problems of the future are to be settled, much more so than the United States and Great Britain. The rapid contraction of the world and the arrival in the Far East of the occidental countries with their developed ideas of precise boundaries and inclusion of nationals within those boundaries had put an end to that ebb and flow of races in the Far East which had given an outlet to the superior, i.e., the most powerful, civilization with an expanding population, and which had been the basis of eastern development from time immemorial. Japan was being maneuvered into a position where it would have to give up its grandiose ambition to acquire at once or bit by bit a hegemony over China, a course which the other countries obviously disapproved. And it could take no risks, for a struggle which would be only a disturbing episode to the United States would mean life or death to Japan.

Fortifications and Naval Bases.

Among Far Eastern and Pacific problems were the fortifications

and naval bases of the Powers in the western Pacific. The Powers chiefly involved were the United States and Japan, the naval authorities of the United States being engaged in delivering at Cavite an average of one submarine and one naval airplane a month, not to speak of the fortification of approaches and land defenses, while Japan was fortifying the Bonins and making naval preparations on other islands. If Japan were to be deprived of the protection of the Anglo-Japanese Alliance in aid of better relations between the United States and Great Britain, the United States should logically in its turn stop loading guns only 750 miles from Formosa, and in Japanese eyes pointed directly at the heart of Japan, while reciprocally Japan should not fortify its insular possessions, not composing Japan proper, and Great Britain should not repeat in the Pacific area the fortifications which it was preparing at Singapore on a formidable scale.

Accordingly the United States, Great Britain, and Japan in Article XIX of the Naval Treaty (February 6, 1922)[7] agreed upon the maintenance of the *status quo* with regard to fortifications and naval bases in the following territories and possessions: As to the United States: "The insular possessions which the United States now holds or may hereafter acquire in the Pacific Ocean, except those adjacent to the coast of the United States, Alaska and the Canal Zone." The Hawaiian Islands (Pearl Harbor) are explicitly excluded from the Treaty and the Aleutian Islands are explicitly included. As to Great Britain: Hong-kong and the British insular possessions in the Pacific east of the meridian of 110° east longitude, except the islands adjacent to Canada, Australia, and New Zealand; Australia, for example, thinks it may wish to fortify Papuan Bay on the south shore of New Guinea. As to Japan: The Kurile, Bonin, Liuchiu, and Pescadores islands, Formosa, and Amami-Oshima, "and any insular territory or possessions in the Pacific Ocean which Japan may hereafter acquire."[8]

Article XIX of the Naval Treaty is the link between limitation

[7] See *Survey*, 1928, pp. 526–533.

[8] The Pacific islands held by Japan under mandate were not included, their fortification being forbidden by the terms of the mandate; but the United States,

of armament and the effort at security undertaken in the Four Power Treaty signed at Washington, December 13, 1921. The latter Treaty, like Article XIX of the Naval Treaty, was a sort of substitute for the Anglo-Japanese Alliance, affording Japan in Articles II and III some of the feeling of security which, at the price of alarming and irritating the United States, it derived from the positive assurance of the Anglo-Japanese Alliance.

The Treaty Relating to Island Possessions.

Mr. Balfour, doubtless chosen to break the news of the British intention because he had played a leading rôle in the negotiation of the Alliance in 1902, gave Secretary Hughes a tentative suggestion of the triple or quadruple *entente* and informed the Japanese that he had done so. The negotiations proceeded rapidly, concluding on December 10, 1921, with a treaty between the United States, the British Empire, France, and Japan which was signed on December 13, 1921. The Treaty binds the parties to respect each other's "rights in relation to their insular possessions and insular dominions in the region of the Pacific Ocean," to go into conference for consideration and adjustment of any controversy between them "arising out of any Pacific question and involving their said rights which is not satisfactorily settled by diplomacy"; and to "communicate with one another fully and frankly in order to arrive at an understanding as to the most efficient measures to be taken, jointly or separately, to meet the . . . situation" created by the threat of aggressive action of any other Power. The Treaty runs for ten years from the time it shall take effect, and continues thereafter unless terminated by one of the High Contracting Parties upon twelve months' notice, and by its own terms brought to an end the alliance of 1911 between Great Britain and Japan.

The Treaty does not include any islands and insular possessions except those of the contracting Powers; the Netherlands and Portugal, Powers holding insular possessions in the region of the

not putting its trust in the mandate system as to which it has no share of control, obtained Japan's direct agreement to their non-fortification in the Japanese-American treaty of February 11, 1922.

Pacific Ocean, were thus not included, on the theory that the co-operation of Powers of their class would not be essential in preserving the peace of the Pacific. Nevertheless on the tactful expression of their desire for recognition of their interests in connection with the treaty, the signatory Powers addressed identic notes to each of them declaring a firm resolve "to respect the rights" of Portugal and of the Netherlands "in relation to their insular possessions in the region of the Pacific Ocean."[9] The Power signing the note limits itself to an undertaking to respect the insular possessions of the Netherlands and of Portugal. Neither of these Powers is included in the undertakings to confer or to communicate, and on their part they give no reciprocal undertakings.

After the signing of the Treaty President Harding on December 20 publicly expressed the opinion that the homeland of Japan was not intended to come within the expression "insular possessions and insular dominions." In this he was in error, all the delegates understanding that Hondu[10] and Hokkaido and the other home islands were included, and he made a public correction of his first statement; but the correction served only to emphasize a point that created immediate embarrassment for the American Government. The implication of Article II of the Treaty looking to "an understanding as to the most efficient measures to be taken, jointly or separately, to meet the exigencies of the particular situation" created "by the aggressive action of any other Power" is that of some sort of activity of a defensive character in aid of a Power whose rights are so threatened. If this implication covered not merely Japan's outlying island possessions but the whole of Nippon, then the agreement might be taken by the Japanese as an Anglo-American guaranty for the whole of the Japanese territory in any war in which Japan might be engaged. Japanese militarists might then feel that they had everything to gain by imperialism in Asia, and nothing to lose if they held such a guaranty against a counter-attack on their home territory. It is true that, applied only to Saghalin, Formosa, and the Pescadores, the

[9] *Senate Document* No. 128, 67th Cong. 2d Sess., pp. 922–923.
[10] Or Honshu, the main island of Japan.

Anglo-American obligation to defend (if it were that) would give Japan a considerable protection against the reprisal consequences of any aggression on the Asiatic mainland, but such an Anglo-American obligation would have a much narrower scope and would seem no more than naturally reciprocal of Japan's undertaking with regard to Hong-kong and the Philippines. On the Japanese side, in view of the peculiar strategic conditions of the Japanese islands and of their highly advantageous situation for defense by mine and submarine, the home island could be defended by Japanese resources alone against attack by even the greatest Powers, and no guaranty was essential. Accordingly, on direct instructions from their Government, and on the score that such a guaranty might not be agreeable to Japanese pride, the Japanese delegates negotiated a supplementary treaty limiting the area of Japanese possessions affected by the Four Power Treaty to "Karafuto (or the southern portion of the island of Saghalin), Formosa and the Pescadores, and the islands under the mandate of Japan."[11]

The Senate felt qualms about the Treaty, even as thus reduced, and even though it fell somewhat short of a conventional alliance. As among the contracting Powers there is no guaranty, nothing but a fairly clear obligation to come into conference in the hope of an "adjustment" of an existing controversy. But Article II, to which reference has been made, carries a fairly clear implication that measures must be adopted by the signatories and then executed—the word is "taken"—by them in the case of aggressive action by any other Power, and this, it might be plausibly argued, means military and naval defense. Here might be the implication of an alliance limited to specific objects, and against such an implication the Senate, which under political conditions less auspicious to the Treaty might have defeated it altogether, was on its guard; in approving the Treaty it attached on March 24, 1922, Senator Brandegee's reservation to the effect that "the United States understands that under the statement in the preamble or under the terms of this Treaty there is no commitment to armed

[11] For a comprehensive account of this whole episode, see Raymond Leslie Buell, *The Washington Conference,* pp. 181–199.

force, no alliance, no obligation to join in any defence." By a simultaneous declaration of all four Powers the Treaty was declared applicable to the islands under Japanese mandate, with the proviso that the making of the Treaty should not be taken as an American assent to the mandates or preclude agreements by the United States with the respective mandatory Powers relating to the mandated islands.

The Four Power Treaty seems to guarantee the *status quo* of the Pacific islands controlled by the signatory Powers. It has no application to any of the rights or interests of any of the parties on the Asiatic mainland, and puts no brake on acts that any of them may commit in any struggle there.[12] Yet by the coöperative precedent which it sets and by the direct suggestion of conference as a way of avoiding serious difficulties it has exercised a benign influence on the relations of the United States and Japan, none the less potent because intangible, and perhaps even the more durable.

During the sittings of the Washington Conference the United States and Japan brought to a halcyon end their teapot dispute over the island of Yap. Modifying the allied agreement of 1917 that Japan should possess the German islands north of the equator, the Supreme Council of the Peace Conference decided on May 7, 1919, that Japan should have a Class C Mandate over these islands. On December 17, 1920, the Council of the League confirmed the Japanese mandate. The American Government subsequently contended that President Wilson, when consenting to this mandate in general, had stated that on account of the importance of Yap as a cable station he wished its final disposition reserved for future consideration; he had hoped that it might be internationalized, and he contended that the Supreme Council had not intended to cover it by the decision of May 7. Japan, whose delegates had not been present at the meetings of the Peace Confer-

[12] Mr. Buell, *op. cit.*, p. 194, in 1922 suggested the interesting paradox that in the event of Japanese aggression in China or Siberia which would require China or Russia to declare war on Japan and to attack the Japanese islands, the United States, even if not obliged to bring military aid to Japan, would at least have to protest "to China for attacking Japan where we should be protesting to Japan for its aggressions in China or Siberia."

ence when Yap was discussed, rested upon the record which made no exception of Yap from the mandate. A conference of the Allied and Associated Powers was held at Washington in the fall of 1920 to make decisions about the former German cable lines, but the question of Yap was not solved; in February, 1921, Japan offered to extend to the United States, although not a member of the League, the enjoyment in the Japanese mandated territory of whatever rights and privileges were possessed by member states of the League.

The Washington Conference afforded a favorable opportunity for continuing the *pourparlers* and a treaty between the two countries was negotiated.[13] By Article III American citizens are to have free access to Yap on equal terms with Japanese in all that relates to the use of the Yap-Guam cable or of any cable touching at the island which may hereafter be laid by the United States or its nationals, and other provisions of the treaty secure equivalent or adequate protection for American interests in respect of radiotelegraph communication. The most important of the detailed provisions is that nationals of the United States are to be exempt from censorship or supervision over cable and radio dispatches, from taxes on messages or on cable or radio stations and from discriminatory police regulations. The trifling character of this dispute might not be so apparent in retrospect if it had not been sensibly ended without mortification to either of the disputants.

China at the Conference.

The report of the American delegates to President Harding at the close of the Washington Conference drew attention to the "causes of misunderstanding and sources of controversy" with regard to the Far East centering principally about China, "where the developments of the past quarter of a century had produced a situation in which international rivalries, jealousies, distrust, and antagonism were fostered."[14] Apart from the Anglo-Japanese Alliance, it was the nexus of these rivalries which had generated the

[13] For the general provisions of this treaty, see p. 312. Here only so much as relates to Yap is given.

[14] *Senate Document,* No. 126, 67th Cong., 2d Sess., p. 819.

Conference. Reduced in intensity by the adoption of the open door policy, the diversion of the war, the extrusion of Germany from the Far Eastern field, and the inability of the Allied Powers, save Japan, in their depleted state to press forward vigorously their trading and other economic interests, the problem had nevertheless taken a new turn with the demand of all the energetic elements in Chinese political life for an end to the obligations which China had in some instances accepted—even invited. In some cases these had grown naturally out of the evolution of circumstances, and in others had been imposed on it in moments of weakness and need. At Paris in 1919 it had laid its petition before the Peace Conference, to be turned away empty-handed by the Powers which already had on the council table more difficulties than they could resolve. China, affronted, refused to sign the Versailles Treaty, and made its peace with Germany as best it could by the Sino-German agreement of May 20, 1921.

In the two-year interval between the two conferences none of China's warring groups would yield to any other in zeal for the ending of the foreigners' privileges, and although the composite Chinese delegation at Washington could have agreed at few points on the domestic problems of China it had no difficulty in uniting on the program of relief which the Chinese desired from "foreign domination." On November 16, the senior Chinese delegate presented to the Committee of the Whole the following program or Bill of Rights, with a request that it be adopted by the Conference:

1. (a) The powers engage to respect and observe the territorial integrity and political and administrative independence of the Chinese republic. (b) China upon her part is prepared to give an undertaking not to alienate or lease any portion of her territory or littoral to any power.

2. China, being in full accord with the principle of the so-called open door or equal opportunity for the commerce and industry of all the nations having treaty relations with China, is prepared to accept and apply it in all parts of the Chinese republic without exception.

3. With a view to strengthening mutual confidence and maintaining peace in the Pacific and the Far East, the powers agree not to conclude between themselves any treaty or agreement directly affect-

ing China or the general peace in these regions without previously notifying China and giving to her an opportunity to participate.

4. All special rights, privileges, immunities, or commitments, whatever their character or contractual basis, claimed by any of the powers in or relating to China are to be declared, and all such or future claims not so made known are to be deemed null and void. The rights, privileges, immunities, and commitments now known or to be declared are to be examined with a view to determining their scope and validity and, if valid, to harmonizing them with one another and with the principles declared by this conference.

5. Immediately, or as soon as circumstances will permit, existing limitations upon China's political, jurisdictional, and administrative freedom of action are to be removed.

6. Reasonable, definite terms of duration are to be attached to China's present commitments, which are without time limits.

7. In the interpretation of instruments granting special rights or privileges, the well-established principle of construction that such grants shall be strictly construed in favor of the grantors is to be observed.

8. China's rights as a neutral are to be fully respected in future wars to which she is not a party.

9. Provision is to be made for the peaceful settlement of international disputes in the Pacific and the Far East.

10. Provision is to be made for future conferences to be held from time to time for the discussion of international questions relative to the Pacific and the Far East, as a basis for determination of common policies of the signatory powers in relation thereto.[15]

To these aspirations, which most nearly touched the position of Japan of all the foreign Powers, the Japanese answer was cautious and friendly: it adhered to "the principle of the so-called open door or equal opportunity," it claimed no special rights or privileges, though its own economic welfare depended upon a free flow of raw materials and foodstuffs from China, it would join the other nations in the effort to come to an agreement with China on the latter's demand for the abolition of extraterritoriality, and it had no desire for territorial aggrandizement at the expense of China. The caution of Japan in regard to so far-reaching a program was shared by the other delegations, and after assurances of

[15] *Senate Document,* No. 126, 67th Cong., 2d Sess., p. 444.

their sympathy for China and hope for its unity and welfare, the Conference adopted a set of conservative resolutions, drafted by Mr. Root, which fell short of satisfying Chinese ardors:[16]

(1) To respect the sovereignty, the independence, and the territorial and administrative integrity of China.

(2) To provide the fullest and most unembarrassed opportunity to China to develop and maintain for herself an effective and stable government.

(3) To use their influence for the purpose of effectually establishing and maintaining the principle of equal opportunity for the commerce and industry of all nations throughout the territory of China.

(4) To refrain from taking advantage of the present conditions in order to seek special rights or privileges which would abridge the rights of the subjects or citizens of friendly states and from countenancing action inimical to the security of such states.[17]

The Open Door.[18]

The policy of the open door, supported by the desire of Great Britain and the United States to obtain full portions of the trade of China, has also behind it something of the Anglo-Saxon philosophy of "sportsmanship," that all should start from scratch in an open race, in the sense that artificial or governmental restrictions on opportunity should be avoided. The Hay notes of 1899, conditionally accepted by the Powers, were limited to the principles of non-interference by any Power possessing a "sphere of interest" in China with any treaty port or vested interest within that sphere, the application of the Chinese treaty tariff within any such "sphere of interest," and uniformity of harbor dues and railroad charges. The broader principle of the note of July 3, 1900, expressing the desire of the United States to

preserve Chinese territorial and administrative entity, protect all rights guaranteed to friendly powers by treaty and international

[16] For the treatment at Washington of some of the more definite of the Chinese desires which became the subject of continued action, such as tariff autonomy and the abolition of extraterritoriality, see pp. 131 ff.

[17] *Senate Document,* No. 126, 67th Cong., 2d Sess., pp. 459–460.

[18] The genesis of this policy and a sketch of its development will be found in the *Survey,* 1928, pp. 75–82.

law, and safeguard for the world the principle of equal and impartial trade with all parts of the Chinese Empire,[19]

was never accepted by the Powers, and within their leased areas, obtained in some cases by not too fastidious methods, there was sometimes favoritism to their own nationals and of course a suspected discrimination against others. This system of favoritism culminated in the Twenty-one Demands by which Japan, under the screen of the World War and the Anglo-Japanese Alliance, sought for itself, exclusive of other Powers, privileges in large areas of China.

Nevertheless the wiping out of German interests in China and the collapse of Russia had left Great Britain, the United States, and Japan as the only major Powers active and influential in Chinese affairs, and the Japanese found it impossible to defend and maintain their covertly obtained privileges of 1915, once the critical attack of the United States and Great Britain was directed against them. The insistence of those two Powers on equal trade opportunity in the broadest sense necessarily involved as a concomitant the protection of the integrity of the Chinese nation. The open door policy, as framed and assented to, was technically consistent with "spheres of interest" but in spirit completely at variance; and the variance once established, the force more in keeping with the world's general direction, viz., that of equal opportunity, was likely to gain the upper hand. In this instance an enlightened self-interest made for the safeguarding of the interest of another, and the interest of China was the interest of all.

The British Government had formulated its policy in explicit terms in a memorandum of August 11, 1919, presented to the Japanese Government:

> One of the fundamental objects of the American proposals as accepted by the British, Japanese and French Governments is to eliminate claims in particular spheres of interest, and to throw open the whole of China without reserve to the combined activities of an international consortium. This object can not be achieved unless all the parties to the scheme agree to sacrifice all claim to enjoy any indus-

[19] *For. Rel.*, 1900, p. 299.

trial preference within the boundaries of any particular sphere of influence.[20]

And China itself, now seeing more clearly than before the identification of its own interest with the principle of equal opportunity for the commerce and industry of all nations having treaty relations with it, declared itself at Washington ready to apply the principle in all parts of the Chinese Republic.

The stage was thus set for the introduction by Mr. Hughes on January 16, 1922, of a draft resolution giving expression to the policy of the open door in a sense destructive of economic spheres of interest. A Japanese effort to amend the proposal so as to prevent its having retroactive effect was defeated in committee, and the Hughes draft became the basis of the Nine Power Open Door Pact which was signed with the other treaties on February 6, 1922. For the first time China was a party to an international undertaking vitally affecting its destiny. Its provisions are simple. The other Powers agree to respect the sovereignty and integrity of China, to assist China in maintaining and developing an effective and stable government, to establish the principle of equal opportunity for commerce and industry everywhere in China, and not to support any agreements of their nationals designed to create spheres of influence or exclusive opportunities. There is to be no unfair discrimination in railroading; China's neutrality in time of war is not to be violated; the Powers are to communicate with one another whenever circumstances involve the application of the Treaty (to which end the Conference adopted a resolution for the establishment in China of a Board of Reference to investigate and report on such questions, a Board which has not yet been created), and other Powers with governments recognized by the signatories are invited to adhere. Article III, containing the now authoritative definition of the open door, is as follows:

With a view to applying more effectually the principles of the Open Door or equality of opportunity in China for the trade and industry of all nations, the Contracting Powers, other than China,

[20] *The Consortium:* Carnegie Endowment for International Peace.

agree that they will not seek, nor support their respective nationals in seeking:

(a) Any arrangement which might purport to establish in favor of their interests any general superiority of rights with respect to commercial or economic development in any designated region of China;

(b) Any such monopoly or preference as would deprive the nationals of any other Power of the right of undertaking any legitimate trade or industry in China, or of participating with the Chinese Government, or with any local authority, in any category of public enterprise, or which by reason of its scope, duration, or geographical extent is calculated to frustrate the practical application of the principle of equal opportunity.

It is understood that the foregoing stipulations of this Article are not to be so construed as to prohibit the acquisition of such properties or rights as may be necessary to the conduct of a particular commercial, industrial, or financial undertaking or to the encouragement of invention and research.

China undertakes to be guided by the principles stated in the foregoing stipulations of this Article in dealing with applications for economic rights and privileges from Governments and nationals of all foreign countries, whether parties to the present Treaty or not.

Post Offices, Police, and Other Chinese Questions.

Other complaints were made at Washington by the Chinese delegates. The first concerned the foreign postal agencies. These agencies were an expansion, required by the disordered conditions in China, of the diplomatic pouch and special government messenger of the foreign Powers, and had grown into regular postal services, notably those of Japan whose nationals in China were more numerous than those of the other foreign Powers. In view of the development of an efficient Chinese postal system the Chinese delegates demanded the immediate abolition of the foreign systems, which absorbed revenue due the Chinese service and provided a channel for the smuggling of opium and morphia. This was agreed to on the assurance that the Chinese Government intended to retain in office the foreign Co-Director General, a Frenchman; the agreement has been carried out and the foreign post offices have been abolished, except perhaps in the Japanese railway zone

in Manchuria where a dispute exists between the Japanese and Chinese as to whether or not the Japanese postal service exceeds the requirements of railway operation.

The Chinese delegation objected also to the maintenance on Chinese territory without China's consent of foreign troops, railway guards, police boxes, and electrical wire and wireless communication installations, and asked that each of the eight other Powers represented at Washington withdraw any such infringements on Chinese sovereignty and issue a self-denying declaration as to the future. The Japanese expressed themselves as willing to withdraw their troops from Hankow and from the Shantung and Chinese Eastern railways under suitable conditions, and those troops have been withdrawn; the troops along the South Manchuria Railway have been maintained as a protection against the disorders of that region. The Chinese delegation may or may not have been aware that by its proposal it was raising the whole question of the validity of Japan's position in Manchuria. Mr. Hanihara's reply, at any rate, gave notice that that position, including the protection of it by military force which rested on the Treaty of Peking of 1905, was not to be questioned. The Conference resolved that at China's request the eight Powers should appoint representatives to conduct, with three representatives of the Chinese Government, an inquiry into the issues raised by their declaration and to make a report for publication.

Concerning the electrical installations, of which the United States maintained three, at Peking, Tientsin, and Tangshan in Chihli, the Conference, without deciding whether the existing stations had been authorized by China or not, resolved that stations in legation grounds should be limited to the transmission of government messages, and that commercial and personal messages and press matter should be transmitted only in case of the interruption of all other telegraphic communication; that all other stations operating without Chinese authority should be sold to China, and that any questions arising as to the stations in leased territories, in the South Manchuria Railway Zone or in the French Concession at Shanghai should be matters for discussion between the Chinese Government and the other governments concerned.

Mr. Hughes introduced in the Conference the broad question of international commitments affecting China's interests with a proposal for their presentation to the Conference. By unanimous resolution the eight Powers engaged to make public, by filing with the Secretariat-General of the Conference, all their governmental commitments with or relating to China, and all the contracts of their respective nationals of a public or privileged character or for the sale of arms or ammunition, or involving a lien upon the public revenues or properties of the Chinese Government or of any of its administrative subdivisions. The publicity thus to be given to Far Eastern diplomatic arrangements is broader than the requirements of the League of Nations, for it extends to contracts of private persons which have public effects.

Shantung.

Of the three remaining important subjects brought before the Conference extraterritoriality has its place in the continuous relations of the United States with China, and the matter of the Chinese Eastern Railway, as it stood in 1922, concerned Russia and China only.[21] It remains in connection with the Conference only to consider briefly the question of Shantung, a question in which the United States had no concern of its own but in which public interest in the United States had become eager and partisan owing to its implication in the struggles at the Paris Peace Conference, to the espousal of the Chinese cause at that time by senators who sought to destroy the prestige of President Wilson,[22] and to the subsequent aggressiveness of Japan in Manchuria and Siberia which convinced American opinion that the policy of the open door was endangered. With this leverage of national interest a general sentiment on behalf of a bullied and helpless China had been aroused.

Shantung, in the most densely inhabited part of China, has a population of some forty million people. In the heyday of the various imperialisms directed against China, Germany, using as a

21 The fighting of Russian and Chinese armies over the Chinese Eastern Railway in 1929, as making an occasion for application of the Pact of Paris, is considered on pp. 407–426.

22 See the *Survey,* 1928, pp. 247 ff.

pretext the murder of two German missionaries in the province, forced China to grant it a lease of Kiaochau bay and city for ninety-nine years, together with mining rights and the privilege to construct a railway between Kiaochau and Tsinan-fu, capital of the province, rights which were availed of. When Japan in 1914 came into the War Tsingtao and the German properties were its prompt objective and these were captured on November 7. But capture gives no title to a non-assignable lessee interest; Japan therefore in its Twenty-one Demands required China to assent in advance to any agreement that Japan might make with Germany relating to the German rights, interests, and concessions in Shantung, and to this China acceded in the Shantung treaty of May 25, 1915.[23] Subsequently Japan promised to return Kiaochau itself to China but with the retention by Japan of privileges onerous to China. In 1917 Japan obtained the secret promises of Great Britain, France, Russia, and Italy to support its pretensions to the German interests in Shantung at any peace conference in consideration of its agreement to give the necessary reinforcement to their destroyer flotillas, especially in the Mediterranean, in the exigency of protecting merchant shipping against the unrestricted submarine warfare.

When China presented at Paris its request for the retrocession of the German leasehold interests in Shantung, President Wilson discovered to his chagrin that they had been promised to Japan. The situation was further complicated by the Japanese demand for the recognition of racial equality in the Covenant of the League, and the possibility that if both of these aims were denied Japan might refuse to become a member of the League and even bolt the Conference.[24] Secretary Lansing proposed, therefore, and the Council of Four voted, that a statement be sent to the Chinese

[23] This treaty was confirmed by agreements of September 24 and September 28, 1918, between China and Japan.

[24] Baron Makino of the Japanese delegation stated that "if Japan received what she wanted in regard to Shantung, her representatives at the plenary meeting would content themselves with a survey of the inequality of races and move some abstract resolution which would probably be rejected. Japan would then merely make a protest. If, however, she regarded herself as ill-treated over Shantung he was unable to say what line the Japanese delegates might take." D. H. Miller, *My Diary at the Conference of Paris,* XIX, 196–197.

informing them that the Peace Conference could not consider this important matter and suggesting that it be brought before the Council of the League of Nations as soon as that body should be able to function. The direct result of this denial was the refusal of the Chinese representatives to sign the Versailles Peace Treaty and an intense anti-Japanese boycott throughout China. Japanese terms for the restoration of Kiaochau were unacceptable to China and the question was still an open sore at the beginning of the Washington Conference.

China displayed an acute desire to present the Shantung question formally to the Conference, but of the eight other nations composing the Conference, six had signed the Peace Treaty and three of the most important had in the stress of war promised the Shantung interests to their ally; direct conversations were therefore opened between China and Japan under the auspices of British and American "moderators."[25] Mr. Balfour's presence was auspicious. He had been Prime Minister at the time of the Anglo-Japanese Alliance of 1902 and had taken an active part in its making; at President Wilson's request he had handled at Paris the difficult negotiations over the Shantung controversy in which the Japanese had been favored; and at Washington he had by his combination of candor and finesse influenced the Japanese to accept the 5:5:3 ratio for capital ships. After thirty-six sessions the Japanese and Chinese worked out an agreement at Washington under which the German leaseholds and other properties were to be transferred to China, China agreeing to pay 61,000,000 yen for the public properties, the salt interests, and the former German mines and railway, and the Japanese troops were to be withdrawn from the province of Shantung.

CHINA SINCE THE WASHINGTON CONFERENCE

TREATY REVISION

This section, as its heading indicates, covers more than the direct relations between China and the United States. In the first place, something must be said of the domestic happenings in China

[25] The term customary for the presiding officer of the New England town meeting seems appropriate to the service here rendered.

which conditioned both Sino-foreign negotiations and the aspirations of nationalist China. In the second place, although the "scramble for concessions" of 1898 is impossible of repetition and its effects have been largely undone, nevertheless the shadow of foreign jealousies still haunts the China coast, its great waterways, and the foreign settlements which for good or ill have been grafted onto the body of China. A Power, magnanimously inclined, may fear to give up a privilege which the other Powers may retain to their relative advantage. Another Power may be reluctant to give up a valuable privilege which the Chinese have come to regard as a servitude, and may invoke the principle of cooperation[26] (so helpful to all concerned under many circumstances) in order "to keep the squadron moving at the speed of the slowest vessel." For it has been a characteristic of the treaty relations of China that they rest upon the old concept of the concert of the Powers. The relations, especially the treaty relations, of China with one Power have therefore a bearing on its relations with another Power, a bearing which does not exist—to anything like the same extent at least—in the relations of such a state as France or Great Britain with its sister states. Such a discrimination as the United States exercises, for example, with regard to selective immigration and the adventitious rights of residence, trade, and travel would be impossible for China *vis-à-vis* the western Powers.

Chinese Aspirations—New Method.

The last twenty years in Cathay have been crowded with events which for restlessness and kaleidoscopic drama would match any similar period of Tennyson's Europe.[27] And the drama is still going on. In the year 1930 China seems like

> . . . a darkling plain
> Swept with confused alarms of struggle and flight,
> Where ignorant armies clash by night.

[26] Discussed in Chapter 1, Section I.

[27] For an account of the events in China between 1925 and 1928, see "The Rise of the Kuomintang," Foreign Policy Association, *Information Service*, June 22, 1928, and "The Nanking Government," *ibid.*, October 30, 1929.

But the ambitions and purposes of most of the individual military leaders are perhaps the least significant feature of Chinese chaos. The forces that have caused the tensions and upheaval of Chinese social and political life, which were briefly described in the chapter on the Emergence of Modern China, are also in confusion. China, as G. E. Sokolsky says,[28] was never "a centrally unified country under an absolute despotic emperor," nor is it now "a gelatinous chunk of the earth where political form and substance is unattainable because the people lack political capacity." The military struggle is only the outward expression of the antinomy between the primitive unorganized village-community life of the "world state" or "area known as China," and the need of a centralized, strong government to represent China in the world of independent Powers. Put in practical terms, the issue is between the demand for such a government and the idea of a loosely organized federation in which local autonomy has all the latitude compatible with federation and the central government only the powers necessary to the discharge of strictly limited responsibilities. To quote Sokolsky again:

> This experimental period is chaotic, as such periods must be, because there is a natural confusion of purpose and ideal, and leadership is not wholly recognized because it receives its sanction from no body beyond its own will. This process of unification of the mass and disintegration politically, occurring simultaneously, involves China in curious paradoxes. When a Kuomintang spokesman says that China is unified, while the machine-guns play a tattoo almost within hearing of the national capital, he is not altogether untruthful nor quite mad. For the unity of spirit is evident in every phase of Chinese life, except in political organization and administration.

Inevitably this must be one aspect of the background against which to consider the general aspirations of the Chinese. On the question of the extent of the demand for treaty revision, the language of the Simon Report on India is apposite to China, and, applied to China, this would read: The Chinese nationalist movement "directly affects the hopes of a very small fraction of the teeming people of China . . . who know next to nothing of politi-

[28] *Far Eastern Review* (Shanghai), April, 1930.

cians and are absorbed in pursuing the traditional course of their daily lives. But none the less, however limited in numbers as compared with the whole, the public men of China claim to be spokesmen for the whole, and in China the Nationalist movement has the essential characteristic of all such manifestations—it concentrates all the forces which are roused by the appeal to national dignity and national self-consciousness."

All parties and all national or partisan governments are equally passionate to rid China of "the unequal treaties." From the Paris Peace Conference to the end of 1929 each government of the day in China—in Peking, Canton, Hankow, and Nanking—has made the same advances to the Powers to alter the basis of its treaty relations. But since the Washington Conference China has put its aspirations in the mouth of the mob and on the banner of a crusade as well as in the parlance of diplomacy. Here was a different method of asking for treaty revision, and, such is the way of the world, where the politeness of note writing failed the forthrightness of mob violence, combined with indecision and disharmony among the Powers, gave a momentum to treaty revision which is in progress as these lines are being written. The slogan of "Down with the Imperialists" brought internal power to the Nationalists. Now that Nationalism is in the saddle it is not likely that the crusade will languish in the sphere of foreign relations.

The Foreign Response.

In response to repeated overtures on the wings of this agitation the United States Government on September 24, 1925, answered in the same terms as the other treaty Powers:

> The United States is now prepared to consider the Chinese Government's proposal for the modification of existing treaties in measure as the Chinese authorities demonstrate their willingness and ability to fulfill their obligations and to assume the protection of foreign rights and interests now safeguarded by the exceptional provisions of those treaties.

This "in measure as" is the stumbling block for Chinese aspirations, for as long as the "measure" is determined by the foreign

Power which holds the privilege the Chinese cannot bring themselves to believe that they have an impartial judge.

It was natural that the initiative in respect of a more substantial grant of "equity" should be taken by the British; they were the principal architects of the treaty system, they had incurred the odium of the Chinese for the shooting of students and demonstrators at Shanghai on May 30, 1925,[29] and at Shameen on June 23 of the same year, and a boycott was hurting trade, exports to China having fallen from 125,292,000 Haikwan taels in 1924 to 92,458,000 in 1925.[30]

On May 28, 1926, the British Government communicated a memorandum to the United States Embassy in London importing an unwillingness to "attempt to force upon the Chinese a greater degree of foreign control over the revenues required for that purpose (i.e., dealing with the unsecured debt) than they are prepared voluntarily to concede."

The new liberality evinced in this memorandum was expressed in a considered and elaborate memorandum of the British Government communicated on December 18, 1926, at Peking to the representatives of the Washington Treaty Powers in pursuance of the obligation contained in Article 7 of the Washington Nine Power Pact.[31] This British document, although not joined in by the United States, was of great importance for American policy toward China because of the general principle of coöperation and the similarity of attitude toward China which were keeping the two English-speaking nations in close touch during these critical post-Washington years, and because substantial concessions to Chinese aspirations by an important western Power—which in this instance possessed the largest trade and investments—would be used by Chinese eagerness as the standard to be forced upon all; the Chinese have quite definitely made up their minds that the squadron shall proceed at the speed of the fastest vessel. This

[29] See p. 171.

[30] *Foreign Trade of China* (1925), Part I, *Report and Abstract of Statistics*, p. 25.

[31] "The Contracting Powers agree that, whenever a situation arises which in the opinion of any one of them involves the application of the stipulations of the present Treaty, and renders desirable discussion of such application, there shall be full and frank communication between the Contracting Powers concerned."

memorandum, after referring to the political disintegration in China in the four post-Washington Conference years owing to civil war and the waning central authority, and the simultaneous growth of a powerful Nationalist movement, "which aimed at gaining for China an equal place among the nations" and deserved the sympathy and understanding of the Powers, made the following proposals to the Washington Treaty Powers: That they should declare "their readiness to negotiate on treaty revision and all other outstanding questions as soon as the Chinese themselves have constituted a Government with authority to negotiate"; that they "should agree to the immediate unconditional grant of the Washington surtaxes," not acted on by the Peking Tariff Conference of 1925–26,[32] and without resting on their protest against the levy of those taxes by the Cantonese in defiance of the treaties; that they "should declare their readiness to recognize her [China's] right to the enjoyment of tariff autonomy as soon as she herself has settled and promulgated a new national tariff"; and that "certain recommendations in the report of the Committee on Extra-territoriality . . .[33] and certain other reforms not covered by that commission's report but falling under the general heading of extra-territoriality can be carried into effect even in present conditions without great delay." Two passages offered to the Chinese an encouragement greater than that contained in the specific recommendation.

> During this possibly very prolonged period of uncertainty [while China might be engaged in overcoming the process of disintegration] the Powers can only, in the view of His Majesty's Government, adopt an expectant attitude and endeavour to shape developments so far as possible in conformity with the realities of the situation so that ultimately, when treaty revision becomes possible, it will be found that part at least of the revision has already been effected on satisfactory lines. It would therefore be wise to abandon the policy of ineffective protest over minor matters, reserving protest—which should then be made effective by united action—only for cases where vital interests are at stake.
>
> . . . . . .
>
> The basic facts of the present situation are that the treaties are

[32] See pp. 152–154.

[33] See pp. 179–182.

now admittedly in many respects out of date, and that in any attempt to secure revision the Chinese are confronted on the one hand with the internal difficulty of their own disunion and on the other with the external difficulty of obtaining the unanimous concurrence of the Powers. The latest instance of this is the failure of the attempt to alter the tariff of 1858. His Majesty's Government attach the greatest importance to the sanctity of treaties, but they believe that this principle may best be maintained by a sympathetic adjustment of treaty rights to the equitable claims of the Chinese. Protests should be reserved for cases where there is an attempt at wholesale repudiation of treaty obligations or an attack upon the legitimate and vital interests of foreigners in China, and in these cases the protests should be made effective by the united action of the Powers.[34]

On January 27, 1927, this policy was followed up by the British submission of seven specific proposals to the Chinese authorities for the modification of Britain's treaty status with China. These measures embraced the recognition of modern Chinese law courts as the competent courts for cases brought by British plaintiffs or complainants, the recognition of a reasonable nationality law, the application as far as practicable in British courts in China of modern Chinese civil and commercial codes, the recognition of British citizens' liability to pay regular and legal Chinese taxation, the consideration of the application to British courts in China of a revised Chinese Penal Code, the readiness to discuss the modification of the municipal administration of British concessions, the willingness to accept the principle that British missionaries should no longer claim the right to purchase land in the interior and that missionary educational and medical institutions should conform to similar Chinese institutions.[35]

Sir Austen Chamberlain, then Secretary of State for Foreign Affairs, in a speech at Birmingham on January 29, 1927, furnished the exegesis for the official memorandum. The policy declared in the memorandum was, he said, to meet China halfway, and he contended that the proposals showed that Britain was going more than halfway.[36]

[34] A. J. Toynbee, *Survey of International Affairs,* 1926, pp. 490, 492.
[35] Sir Frederick Whyte, *China and the Foreign Powers,* p. 68.
[36] *Ibid.,* p. 58.

The American Attitude.

The lead thus given by the British Government was shared by that of the United States. On January 27, 1927, Secretary of State Kellogg issued a statement on the Chinese tariff and extraterritoriality which was regarded as representing a general policy:

> The Government of the United States . . . is ready now to continue the negotiations on the entire subject of the tariff and extraterritoriality or to take up negotiations on behalf of the United States alone. The only question is with whom it shall negotiate. As I have said heretofore, if China can agree upon the appointment of delegates representing the authorities or the people of the country, we are prepared to negotiate such a treaty.

The House of Representatives then expressed its views by adopting on February 21, 1927, a resolution introduced by Congressman Porter, Chairman of the Committee on Foreign Affairs:

> *Resolved.* . . . That the President of the United States be, and he hereby is, respectfully requested to enter into negotiations with duly accredited agents of the Republic of China, authorized to speak for the people of China, with a view to the negotiation and the drafting of a treaty or of treaties between the United States of America and the Republic of China which shall take the place of the treaties now in force between the two countries, which provide for the exercise in China of American extraterritorial or jurisdictional rights or limit her full autonomy with reference to the levying of customs dues or other taxes, or of such other treaty provisions as may be found to be unequal or nonreciprocal in character, to the end that henceforth the treaty relations between the two countries shall be upon an equitable and reciprocal basis and will be such as will in no way offend the sovereign dignity of either of the parties or place obstacles in the way of realization by either of them of their several national aspirations or the maintenance by them of their several legitimate domestic policies.

The Nanking Outrage and United States Policy.

By this time China was in turmoil. The Nationalists from Canton had reached the Yangtze valley, borne along by political

agitation as much as by military spirit. Since the agitation was compounded of antiforeignism, the danger to foreign lives and property was manifest. The American authorities had removed from the entire Yangtze valley all Americans who were willing to leave and had concentrated them in Shanghai where American forces could protect them. Before complete withdrawal could be effected an outrage occurred at Nanking on March 23 and 24 which brought about a lull in foreign politeness to Chinese aspirations.

It appears that while the troops of the Peking government were evacuating Nanking, units in the Nationalist army which were occupying the city attacked foreign premises, looted some of the foreign consulates, killed six foreigners, wounded seven more, and abused a number.[37] Many of the British and American residents gathered at the Standard Oil compound for common defense were protected by a barrage played by American and British gunboats, which in covering the escape of the residents killed seven Chinese and wounded fifteen. This incident was one of the causes of the breach between the Radicals and the Moderates in the Nationalist party, the Moderates being satisfied that the disorderly and murderous acts of the units referred to were committed by the direction of the Radicals in order to discredit the Moderate element in the Kuomintang.

After this incident, the United States, Great Britain, France, Italy, and Japan presented to the Hankow Nationalist government identic notes demanding punishment of the commander at Nanking, apology in writing with a promise to refrain from violence or agitation against foreigners in the future, and full reparation for the injuries and damage. A threat of action was contained in the conclusion of the notes. The replies of the Hankow Nationalist government dated April 14 were not considered satisfactory. They agreed to make good the damage, if it could be proved that the damage was not caused by the bombardment or by Peking's troops, to submit the question of punishment and

[37] For an account of the Nanking Incident see report of Consul John K. Davis to the Department of State: *State Department Release,* May 7, 1928. Also for details of naval bombardment, *Proceedings of the United States Naval Institute,* January, 1928.

apology of the troop commanders to the findings of a government inquiry then in progress or of an international commission of inquiry, and to protect foreigners in the future. The seventh clause of the Chinese note[38] called attention to the "inequitable treaties" as constituting

> the chief danger to foreign lives and property in China, and this danger will persist as long as effective government is rendered difficult by foreign insistence on conditions which are at once a humiliation and a menace to a nation that has known greatness and is today conscious of renewed strength.

Some of the Powers favored joint military measures of a coercive character, but the United States, after going a long way with the others, withdrew from the negotiations, and the plan for reprisals was dropped.

Here again was illustrated that characteristic of occasional aloofness which has been the qualification of United States cooperation in action toward China. In virtue of copartnership in the treaty system the United States has always been in the treaty concert but not of it, at least for any considerable length of time. As John Hay once said:

> The position of the United States in relation to China makes it expedient that while circumstances may sometimes require that it act on lines similar to those other powers follow, it should do so singly and without the coöperation of other Powers.[39]

The Washington Conference in the Four Power Pact and the Nine Power Treaty laid down new bases of coöperation, but in the press of contact with the exacting post-Washington Conference events in China, the half-aloof, half-concurrent attitude has had ample demonstration. One contrast to the American action over the Nanking affair may be given. In the spring of 1926 a joint ultimatum to opposing Chinese armies fighting outside of Tientsin was participated in by the United States which demanded, on threat of naval force, that the Chinese cease from in-

[38] Eugene Chen to Consul General Lockhart, *State Department Release,* April 15, 1927.

[39] *For. Rel.,* 1900, p. 111.

terfering with the freedom of communications from the sea to Peking. The contestants were Marshal Feng Yu-hsiang and Marshals Wu Pei-fu and Chang Tso-lin. Feng had captured Tientsin, occupied the old Taku forts at the mouth of the river, and placed mines in the river in order to check the advance of the opposing forces up the river. Foreign vessels were stopped and searched, and two Japanese destroyers were shelled by the Taku forts, with the result that nine Japanese were wounded, one of whom died. On March 16, 1926, the Powers sent a joint forty-eight-hour ultimatum to the fighting factions demanding the clearing of the channel. This was complied with.

In the Nanking Incident the United States stayed with the Powers until the eleventh hour, and then withdrew. Its withdrawal, by spelling the end of reprisals negotiations, had a profound influence on the future of Chinese nationalism. Coercive action of the kind in contemplation would have put treaty revision into the background for some time. It would probably have given the movement in China a more leftward slant. As it was, the abandonment of reprisals helped to weight the scales in the internal struggle on the side of the Moderates, who, while undermining and eventually overthrowing the Radical element, were enabled to continue their successful career against the northerners which in 1927 ended in the establishment of their own government at Nanking. For nearly a year the settlement of the Nanking trouble lay dormant. Then, just as the United States had broken away from reprisals, it elected to take its own line in coming to an understanding with the Chinese. Compared with the threats used a year before, the settlement, which was dated April 2, 1928, was mild. The United States compounded by accepting an expression of regret and a promise to pay damages, and dropped the demand for punishment of the responsible military leaders. It contented itself with the Nationalist statement that the evil deed was done by the Communists, of whom some had already been executed and whose leader was still at large. The announcement was received with a certain chagrin in non-American quarters, but the London *Times* remarked that, "considering that the Nationalist Government of today is not precisely the Nationalist Government of last year, a

vigorous, though not fully effective, effort had been made to root out Communism and that the Powers anyhow had not pressed their original demand, perhaps much more was not to be expected."[40] One by one the other Powers followed the American example.

There was apparently no question of stealing a march on the other Powers. "It is understood that the five Powers which participated in the despatch of Notes to the Nationalists last spring . . . have kept each other fully informed regarding the progress of the negotiations."[41] But the "full and frank communication" provided for by Article 7 of the Nine Power Treaty apparently did not extend to the subsequent signing of the Sino-American treaty of July 24, 1928, granting tariff autonomy to China,[42] which was the prelude to American recognition of the Nanking government. For, according to Professor Toynbee, the preliminary note by Secretary Kellogg, dated July 24, 1928, was communicated to the other seven signatories of the Nine Power Treaty the day before the Tariff Treaty was signed at Peking.[43] Moreover, the Secretary took no account of the Nine Power Treaty provision in his statement on treaty revision on January 27, 1927. The evolving nature of relations with China has left far behind the Nine Power Treaty which lays down a hard and fast rule of coöperation. Remarking on the changes in policy since the making of the Washington Conference treaties Professor Holcombe observes:

> . . . the Nine Power Treaty is already obsolete on account of the breakdown of the concert of the Powers and the abandonment of the old policy of foreign tutelage. The Four Power Treaty, which provides for mutual assistance under certain circumstances in the Pacific region between the Americans, English, French, and Japanese, is a type of regional understanding which is also rendered obsolete by the altered conditions in the Far East.[44]

Renewal of Chinese Demands.

Concurrently with the settlement of the Nanking affair the Chinese again brought forward their demand for general treaty revi-

[40] April 4, 1930.
[41] *China Weekly Review* (Shanghai), April 7, 1928.
[42] See p. 156.
[43] Toynbee, *op. cit.*, 1928, p. 425.
[44] A. N. Holcombe, *The Chinese Revolution* (1930), p. 346.

sion. A note of the Nationalist Minister of Foreign Affairs (General Hwang Fu) to the United States Minister on April 2, 1928, contained the following:

> Referring to the notes exchanged this day on the subject of the settlement of the questions arising out of the Nanking incident of March 24, 1927, the minister for foreign affairs of the Nationalist Government has the honor to express the hope that a new epoch will begin in the diplomatic relations between China and the United States; and to suggest that further steps may be taken for the revision of the existing treaties and the readjustment of outstanding questions on the basis of equality and mutual respect for territorial sovereignty.

The American reply was cautious: the conditions of the time necessitated the provisions of the earlier treaties; the remedying of those conditions would afford opportunities

> for the revision, in due form and by mutual consent, of such treaty stipulations as may have become unnecessary or inappropriate.
>
> To that end, the American Government looks forward to the hope that there may be developed an administration so far representative of the Chinese people, and so far exercising real authority, as to be capable of assuring the actual fulfilment in good faith of any obligations such as China would of necessity have for its part to undertake incidentally to the desired readjustment of treaty relations.

"His Majesty's Government," read the reply of Sir Miles W. Lampson, the British Minister,

> in Great Britain recognize the essential justice of the Chinese claim to treaty revision and in their declaration of December 18, 1926, and their seven proposals of January 28, 1927, they have made their policy abundantly clear and have taken such practical steps as lay in their power to carry it into effect. In order to give further expression to the friendly and sympathetic attitude which they have always maintained towards China, His Majesty's Government in Great Britain are prepared in due course to enter into negotiations with the Nationalist Government, through their duly authorized representatives, on the subject of treaty revision. His Majesty's Government in Great Britain do not intend to allow the Nanking incident to

alter their previous attitude towards China and prefer to consider it as an episode bearing no relation to their treaty revision policy.[45]

After the conclusion of the tariff treaty with the United States on July 24, 1928, Dr. C. T. Wang, who had succeeded Hwang Fu as Foreign Minister, using cordial terms as to the traditional friendship of the two countries, attempted to go on to general treaty revision through the appointment of plenipotentiary delegates. Minister MacMurray replied on July 30:

. . . In order, therefore, to avoid any possibility of misconception as to the purposes of my Government under present circumstances, I must point out that, whereas your note to me refers to negotiations soon to commence, it is now the fact that such negotiations as the American Government had in contemplation have already been satisfactorily concluded.

Repeated declarations of policy by the Nationalist government, declarations containing assurances to the foreign Powers as to the moderation and legal orthodoxy of the plans of that government, had raised in Dr. Wang the hope that the Powers would at once negotiate new treaties on a basis of complete equality. A government declaration of June 16, 1928, contained the promise that the Nationalist government

will not disregard, nor has it disregarded, any international responsibility in consequence of agreements and understandings properly and legally concluded and on a basis of equality.

More specific was the assurance that the Chinese would

discard any militaristic form of government which has been the practice of the past and we shall not tolerate any person aiming at the destruction of modern social institutions such as the Communists.

In a declaration of July 8, the Minister of Foreign Affairs took a firmer tone, announcing that all unequal treaties which had expired were *ipso facto* abrogated and that the Nationalist government would

immediately take steps to terminate, in accordance with proper pro-

[45] George H. Blakeslee, *The Pacific Area,* pp. 149–150.

cedure, those unequal treaties which have not yet expired, and conclude new treaties.

Pending the conclusion of new treaties, interim regulations would give to the nationals of the countries whose treaties have expired all necessary protection based on international and Chinese law and equality with Chinese in respect of taxes.

The Nationalist party, the Kuomintang, acted as a treaty revision spur to its government. The third National Congress, held March 15–28, 1929, reiterated by resolution the necessity of abrogating the unequal treaties and concluding new treaties on the basis of equality and reciprocity. The statement of foreign policy of the first Congress had declared an intention not to recognize any of China's external debts:

> All of China's external debts which have been negotiated by irresponsible governments, such as the Peking Government that came into power in October, 1923, and have not been used for the promotion of the people's welfare but for the maintenance of personal honors and offices, and the prosecution of civil wars, are unwarranted. The Chinese people are not responsible for the repayment of such debts.

The third Congress went further, declaring for a consolidation of China's foreign loans and a recognition only of such "foreign loans as are not injurious to China's political and economic interests." The resolution of the Congress was elaborated in a manifesto of the Central Executive Committee of the party issued June 18, 1929.

Revision under Treaty Clauses.

Some of the treaties contain clauses permitting revision at the end of fixed—usually ten-year—periods. Sharp differences of opinion have arisen over the proper construction of these revisionary clauses. The Belgian treaty contains a clause allowing Belgium at the end of a ten-year period to open negotiations for modification of the treaty, on six months' notice; in the absence of any such notification the treaty is to remain in force. Since the

parties disagreed at the end of a ten-year period as to *ad interim* regulations China took the position that the treaty had expired and Belgium that it was still in force unmodified. Belgium then brought an action in the Permanent Court of International Justice to have the treaty sustained; China, on the other hand, denied the jurisdiction of the court, contending that the issue was not legal but political and came within Articles XI and XIX of the Covenant.[46] During the unilateral court proceedings the parties negotiated a new treaty and Belgium withdrew its action.

Denmark, Spain, Italy, and Portugal had treaties with China which allowed either party to "ask for a revision of the tariff or the commercial arrangements of this treaty" at the end of any ten-year period. Between 1926 and 1928 either the Peking or the Nanking government declared these treaties terminated *in toto* at the end of a ten-year period, a construction of the revisionary clause which was of course rejected by each of the four countries in question. The issue was never determined; new treaties were signed at the end of 1928 which contain changes in matters other than the tariff and commerce and contain the following clause, which is also in the new Belgian treaty:

> The two high contracting parties have decided to enter as soon as possible into negotiations for the purpose of concluding a treaty of commerce and navigation based on the principles of absolute equality and nondiscrimination in their commercial relations and mutual respect for sovereignty.

The position of Japan in regard to such treaty questions is stronger than that of the other Powers because of its contiguity and the pressure it can bring to bear in negotiations; it is weaker because industrially Japan has so much at stake—the Chinese

[46] Article XI of the Covenant reads in part:

"It is also declared to be the friendly right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends."

Article XIX of the Covenant reads:

"The Assembly may from time to time advise the reconsideration by Members of the League of treaties which have become inapplicable, and the consideration of international conditions whose continuance might endanger the peace of the world."

market is indispensable to its industrial prosperity, and the Chinese boycott is a dreaded weapon. Article XXVI of Japan's treaty provides for a revision of the tariffs and of the commercial arrangements at the end of ten years, but if no revision be effected the treaty is to continue for ten years more. The treaty contains extraterritorial clauses and most-favored-nation provisions. On July 20, 1928, China declared the treaty terminated in its entirety. Japan contends that only the tariff and commercial articles are open to revision, and that to be effective revision must be completed within the six-month term, which would allow of its defeat by refusal to agree or by delay. The dispute remains an open issue, though the controversy in respect of the tariff has been settled. The British treaty of Tientsin of June 26, 1858, which contains the grant of extraterritoriality, comes to the end of a ten-year period on October 24, 1930; it contains a clause like that in the Spanish treaty providing for "revision of the tariff and of the commercial articles of this treaty." China will probably assert the right to terminate the treaty as it did in the cases of Denmark, Spain, Italy, and Portugal. The French treaties of Whampoa of October 24, 1844, and of Tientsin of June 27, 1858, granting extraterritorial privileges, provide, like the Belgian, that after a ten-year period "the Government of the Empire of the French" may negotiate for modification.

The case of the Sino-American treaties is more complicated. The treaties of Tientsin and the supplementary treaty of Peking, November 17, 1880, carry the grants of extraterritoriality; they contain no provision for revision. The question arises: How long do such treaties endure? The treaty on commercial relations, signed October 8, 1903, is open for revision January 13, 1934. This entire treaty is open to revision, but it contains a clause continuing in effect "all the provisions of the several treaties between the United States and China which were in force on the first day of January, 1900."

New general treaties "based on equality" have been signed by China with Bolivia (1919), Persia (1920), Germany (1921 and 1928), Russia (1924), Austria (1925), Finland (1926), Greece (May 26, 1928), Poland (September 18, 1929), Czechoslovakia

(February 12, 1930), and Turkey. The Sino-Greek Treaty has been signed and ratified by both states; on April 1, 1930, those with Poland and Czechoslovakia had been signed, and the Sino-Turkish Treaty initialed. In the treaties with Greece, Poland, and Czechoslovakia[47] (1) each party recognizes the right of the other to regulate its own tariff, (2) each undertakes that its nationals shall abide by the laws and regulations of the other and be subject to the local tribunals. The Sino-Greek Treaty[48] as published contains an article which may be interpreted to reserve inland navigation rights for the nationals of the respective countries: "In regard to questions which are not provided for in the present Treaty, the two High Contracting Parties agree to apply the principles of equality and mutual respect for territorial sovereignty which constitute the basis of the present Treaty." Dr. Wang stated on February 12, 1930, that these treaties would be used as models for future treaties, being based upon the principles of complete equality and reciprocity.

Rebus Sic Stantibus *and Article XIX of the Covenant.*

In the negotiations with the Powers pointing to the abolition of extraterritoriality, the Chinese Government vaguely referred to the doctrine of *rebus sic stantibus*. Dr. Wang Chung-hui, President of the Judicial Yüan of the national government and a Deputy-Judge on the Permanent Court of International Justice at The Hague, declared in an address January 30, 1929:

> The extraterritoriality regime is destined to go for many reasons . . . according to the well-known principle of international law, *rebus sic stantibus*, changed conditions demand treaty revisions. . . . Some 80 years ago when the system of extraterritoriality was introduced there was only a very small number of foreigners in China. They confined their residence and activities in a few treaty-ports. Today their number is greatly increased and they scatter themselves outside of the treaty-ports. Eighty years ago Chinese law was radically different from Western law. Today our law is modelled after the Western system. The economic changes during the extraterritorial period of some 80 years have brought about fundamental changes in

[47] *Week in China* (Peking), February 15, 1930.
[48] *Chinese Affairs*, February 15, 1930.

the relation between the Chinese people and foreigners in China. Extraterritoriality, as a *modus vivendi*, aimed at producing good relations between the Chinese and foreigners in China. Today it is bound to produce harmful consequences contrary to its original aim.[49]

Revision of treaties and the catch phrase *rebus sic stantibus*, often confused by text-writers on international law, are two distinct things. Whereas revision of treaties falls within the scope of diplomatic action, *rebus sic stantibus* is a rule of interpretation or of law according to which in certain events, implied or expressed, a treaty has no longer any effect. Viewed in that light *rebus sic stantibus* is comparable to the doctrine of frustration of contracts by reason of destruction of the subject matter or other condition making performance impossible; this is well understood by the common law lawyer.

Sir John Fischer Williams argues[50] that the doctrine may well be applicable to the treaties between China and the Powers conferring extraterritorial jurisdiction. If treaties conferring extraterritorial jurisdiction are based on the supposition that the servient party's judicial system is weak and backward, it may be asked whether such treaties do not become "obsolete when the country granting the extraterritorial privileges has so far advanced in its judicial and general administration as to render those privileges no longer necessary for the preservation of peaceful intercourse."

The Extraterritoriality Commission, appointed by the Powers at the Washington Conference of 1922, examined the present practice of extraterritorial jurisdiction in China, and reported that China's jurisdiction had not improved to the pitch that would warrant their relinquishment of extraterritorial rights; on this assumption, there being no supervening essential change in the conditions in relation to which these treaties were made, the doctrine itself, though properly invoked, provides the answer to the question.

To say that it is not easy to apply the doctrine of *rebus sic stantibus* is simply to admit the inevitable difficulty of a legal system that is as weak as international law—a weakness which one

[49] *Week in China*, February 16, 1929, pp. 128–129.
[50] *American Journal of International Law*, XXII, 95.

finds in every system of undeveloped law where the political machinery from which it draws its strength is still somewhat, in the language of Hobbes, in a state of nature. For such a situation the best answer is not a legal one, but the flexible and magnanimous diplomacy proposed in the British memorandum of December 18, 1926, addressed to the Washington Treaty Powers.[51]

The same kind of difficulty is presented by China's invocation of Article XIX[52] of the Covenant of the League of Nations at the 1929 meeting of the assembly. This weapon China is now using vigorously against those who would still withhold treaty revision. The assembly met China's case so far as to appoint a committee to consider and report on the best methods to make this article effective. No report has yet been made, but it may be surmised that the League is confronted with no little embarrassment, in view of other treaties, especially the peace treaties, which member states would like to see declared "inapplicable."

TARIFF AUTONOMY

The Treaty Tariff.

The Nanking Treaty of 1842 and the supplementary agreements of 1843 provided that duties on British imports and exports should be on a basis of approximately 5 per cent ad valorem. The most-favored-nation clause of many later Chinese treaties made it impossible to change the tariff without the consent of all the Powers. The Treaty of Tientsin of 1858 made most of the rates specific instead of ad valorem, so that with the continual increases of price indices the effectiveness of the rates steadily declined. To offset these price changes the Treaty Powers agreed in 1902, 1918, and 1922 to allow increases in the specific customs duties. This limitation of the tariff in the early days was one of the devices used to force China into trade relations with the West and to maintain this intercourse on the terms laid down by the foreigners.

Chinese objections to tariff restriction are summarized by Professor Mingchien Joshua Bau of the National University of Peking:

[51] See p. 135.

[52] See p. 146, footnote.

It is non-reciprocal; China receives no concessions from the countries which control its tariff.

It is irrational, making no distinctions between commodities, e.g., luxuries and necessities.

It has no relation to the needs of revenue.

It prevents a "protective" system for the development of "infant industries" or industries necessary in time of war.

It necessitates the existence of the pernicious tax known as likin.[53]

Above all it impairs Chinese "sovereignty," i.e., the power of a state to act without foreign interference.[54]

Germany and Austria-Hungary lost their share of tariff control by the Chinese declaration of war on August 14, 1917. As China refused to sign the Treaty of Versailles, formal relations were renewed by a declaration of the German Government and an agreement with China of May 20, 1921. Article 4 of this agreement stipulates that "no duties higher than those paid by nationals of the country shall be charged on products, whether raw or manufactured, coming from one of the two Republics, or from another country, when such products are imported, exported or in transit." It was renewed on August 17, 1928. The new treaty of Austria with China was made October 19, 1925. The renunciation of tariff privileges by Hungary was secured by "Section IV —China" in the Treaty of Trianon.

The U.S.S.R. renounced its privileges by declarations of July 25, 1919, and September 27, 1920. In agreements on "general principles for the settlement of questions" between China and the U.S.S.R. signed at Peking, May 31, 1924, arrangements were made for a conference to be held within a month for detailed arrangements concerning, *inter alia*, a "Customs Tariff for the two Contracting Parties in accordance with the principles of equality and reciprocity."[55] The conference has not been held.

The Chinese plea at Paris for tariff autonomy was put aside. At

[53] Likin means a percentage tax. Its interference with trade may be indicated by the fact that in 1921 there were no fewer than 700 collectorates in China. Likin has been called the greatest obstacle to China's industrial development. See *Bulletin* of the Chinese Government Bureau of Economic Information, May 6, 1921.

[54] *China and World Peace*, p. 73.

[55] *China Year Book*, 1924, p. 1194.

Washington more progress was made; the Powers arranged for a "Revision Commission" to "meet at Shanghai, at the earliest practicable date," to revise "the customs schedule of duties on imports into China . . . so that the rates of duty shall be equivalent to 5 per cent effective" (for the reasons given above, the Chinese schedule of rates, at the time of the Washington Conference, amounted to only 3½ per cent effective); and for a conference to conduct negotiations for the abolition of likin and for tariff increases up to 12½ per cent on imports, expectantly provided for but never realized by American,[56] British, and Japanese treaties of 1902 and 1903. This conference was specifically authorized to agree to additional import duties, above the normal 5 per cent, of 5 per cent on luxuries and of 2½ per cent on all other commodities. These new duties were popularly called "the Washington Conference surtaxes."

The Revision Commission met at Shanghai in 1922 and effected the revision necessary to grant China an effective 5 per cent duty on imports.

The Tariff Conference of 1925.

The controversy between China and France over the question whether the French share of the Boxer Indemnity should be paid in gold francs as the French insisted or in depreciated paper francs delayed the holding of the tariff conference for more than three years. The French case was sound, but it was unfortunate that France should have allowed the individual controversy to hold up the Chinese tariff question in which thirteen Powers were interested.

The Conference met at Peking on October 26, 1925. Thirteen Powers were represented: China, the United States, Belgium, Denmark, France, Great Britain, Italy, Japan, the Netherlands, Norway, Portugal, Spain, and Sweden. The Chinese delegates opened the sessions with proposals for treaties providing for complete tariff autonomy; the abolition of likin, without making this

[56] The Sino-American commercial treaty was dated October 8, 1903. The increases were never realized because they were based on the making of similar agreements by the other Powers, and of those Powers only Sweden acted.

promise a condition of the surrender of the foreign privileges; and surtaxes higher than those named at Washington.

So far as concerned the principle, the Chinese proposal for tariff autonomy met with a hospitable reception from both the British and the American delegations. The British had already expected that the Conference might recommend "the full realization of China's claim to complete liberty of action in matters relating to her tariff" and that they might call upon their Government to ratify such further measures as the Conference might recommend in order to accomplish that realization within a reasonable period. The American delegation expressed no less respect for the Chinese desires and was willing to negotiate a new treaty granting tariff autonomy. It suggested the levying of the Washington surtaxes in 1926; that three months after the coming of the new treaty into force China should be allowed as an interim revenue to impose import duties at rates from 5 per cent to 12½ per cent until full tariff autonomy should be achieved; that likin and similar internal taxes should be abolished and that if such taxes should be collected the customs administration should refund a similar amount; and that the Chinese should be entitled to full tariff autonomy on January 1, 1929, as suggested by the Chinese delegation. The inducement to the provinces to abandon likin lay in the proposal that "funds from the customs revenues shall be apportioned among the provinces in lieu of likin."

The Japanese also accepted Chinese tariff autonomy in principle, but, like the other Powers, wished to see a concurrent abolition of likin; the distinguishing feature of their proposal was that each contracting Power should be allowed to negotiate with China for reciprocal conventional tariffs on certain special articles,[57] obviously in order that Japan might safeguard its trade in special goods.

Out of these views emerged the two following resolutions adopted on November 19, 1925, by the Committee on Provisional Measures of the Conference:

[57] Mr. Hioki's statement, November 2, 1925, second session of the Committee on Tariff Autonomy, *Far Eastern Times*, November 4, 1925, quoted in *Problems of the Pacific* (1927); *Proceedings of the Second Conference of the Institute of Pacific Relations* (University of Chicago Press, 1928), p. 244.

The Contracting Powers other than China hereby recognize China's right to enjoy tariff autonomy; agree to remove the tariff restrictions which are contained in existing treaties between themselves respectively and China; and consent to the going into effect of the Chinese National Tariff Law on January 1, 1929.

The Government of the Republic of China declares that Likin shall be abolished simultaneously with the enforcement of the Chinese National Tariff Law; and further declares that the abolition of Likin shall be effectively carried out by the first day of the first month of the eighteenth year of the Republic of China (January 1, 1929).[58]

The Conference held its sessions in the midst of civil war and seven of the ten Chinese delegates were constrained to abandon the proceedings. For this reason and because the Nationalist government at Canton and the leaders of the Kuominchun (Marshal Feng's army) stated that they would not recognize any action taken by the Conference, it came to an inconclusive end.

The differences of view of the major Powers represented at the Conference produced some irritation that discharged itself harmlessly in the press and in government correspondence. Of these differences the most considerable seem to have arisen from Japan's proposal to grant tariff autonomy subject to a tariff reciprocity treaty which should maintain low rates upon cheap grade goods exported by Japan, and to have the unsecured loans served by the proceeds of the surtaxes, special reference being made to the Nishihara loans; from the desire of the British that a considerable portion of the increased revenues should be devoted to constructive work, especially railway development in China; and from the issue whether the undertaking on the part of China

to abolish likin should be regarded as integrally related to the undertakings upon the part of foreign powers to surrender their treaty rights of control of China's customs, so that one promise should be regarded as the reciprocal of the other, or whether the two undertakings were to be regarded as independent of each other.[59]

[58] From the Official Bulletin, Special Tariff Conference, Committee II, fourth meeting at Chu Jen Tang, on Thursday, November 19, 1925, at 10 a.m., *Peking Daily News*, November 20, 1925.

[59] W. W. Willoughby, *Foreign Rights and Interests in China*, pp. 838–840.

The Washington Surtaxes.

The Cantonese government promptly began to collect "the Washington surtaxes," although the Conference had not authorized them, the natural eagerness of revolutionary governments being increased by the impatience of the Chinese over the French delay in bringing on the Conference. After the British memorandum of December 18, 1926,[60] advocated the concession of these surtaxes, the Peking government of the north ordered their collection, and dismissed Sir Francis Aglen, the Inspector-General, for his refusal to collect them.[61]

But the Nationalists did not content themselves with a moderate success and in 1927 imposed surtaxes of 30 per cent on wine and spirits and of 50 per cent on tobacco. The Americans, British, and Japanese invoked their treaty powers to prevent these levies from being exacted. The British Court in China ordered the release of British goods upon the payment of the regular (treaty) 5 per cent duty plus the 2½ per cent surtax, which had been recognized by the British Government. The Japanese Court in Shanghai ordered the release of Japanese goods (liquors and tobaccos only were in question) upon the payment of only 5 per cent duty. The American Court felt that it had no jurisdiction, Commissioner Lurton ruling: "It seems that the main question herein involved develops into a purely political one, and must be settled by the Executive Department of our Government." The result of this ruling was the immediate cancellation of shipping contracts on American ships on the Pacific. Evidently as a result of this situation, the Department of State took positive action to protect American shippers and maintain treaty rights. In a letter, October 3, 1927, to the Shanghai American Chamber of Commerce, Consul-General Edwin S. Cunningham, at Shanghai, stated that, although the Department of State had earlier instructed him that the Consulate-General "could not become the depository for Customs revenues," it now authorized him to accept from American merchants payment of the treaty duty, 5 per cent, on wines and liquors and tobacco products, and that this would effect a

[60] See p. 135.

[61] The procedure was later changed to a gazetting on leave for a year.

legal release of these goods from customs. The Chinese, however, withdrew the excess rates.

Negotiating Tariff Autonomy.

The proposal of the British memorandum of December 18, 1926, to the Powers to grant "the Washington surtaxes" came into collision with the treaty-making provisions of the United States Constitution. There was a treaty fixing the customs duties at 5 per cent, and no organ of the United States Government could allow an alteration in those duties without a formal treaty ratified by the Senate of the United States. So said Mr. Kellogg in a statement on American policy in China of January 27, 1927. At the same time he made clear the disposition of the Executive:

> The United States is now and has been, ever since the negotiation of the Washington treaty, prepared to enter into negotiations with any Government of China, or delegates who can represent or speak for China, not only for the putting into force of the surtaxes of the Washington treaty, but entirely releasing tariff control and restoring complete tariff autonomy to China. . . .

The capture of Nanking by the Nationalist armies in 1927 gave the Nanking government the authority which Mr. Kellogg had predicated as the condition of a tariff-treaty negotiation. A treaty between China and the United States was therefore signed, July 24, 1928, which provides:

> All provisions which appear in treaties hitherto concluded and in force between the United States of America and China relating to rates of duty on imports and exports of merchandise, drawbacks, transit dues and tonnage dues in China shall be annulled and become inoperative, and the principle of complete national tariff autonomy shall apply, subject, however, to the condition that each of the high contracting parties shall enjoy in the territories of the other with respect to the above specified and any related matters treatment in no way discriminatory as compared with the treatment accorded to any other country.
>
> The nationals of neither of the high contracting parties shall be compelled under any pretext whatever to pay within the territories of the other party any duties, internal charges or taxes upon their

importations and exportations other or higher than those paid by nationals of the country or by nationals of any other country.[62]

Fulfilment of the terms of this conditional release of control began at once, and by December of the same year all the Treaty Powers but Japan had signed treaties conceding tariff autonomy to China.[63]

On February 1, 1929, China put into effect a new national tariff under which it exercised virtual autonomy, though the schedule was that which had been drafted in common with the Powers at the abortive Tariff Conference.

The Japanese Position.

The position of Japan is more difficult in respect of Chinese tariffs than that of any of the other Powers because of its dependence upon the Chinese market, especially in the case of low-priced manufactures, such as cheap cottons. A Japanese delegate stated at the Peking conference:

> An immediate enforcement of a surtax at a higher rate than 2½% would seriously disturb the trade relations between China and other countries and more particularly would vitally affect the industry and commerce of Japan.[64]

The Japanese delegate, while unwilling to oppose the trend of affairs, proposed accordingly that until January, 1929,

> China, on the one hand, and the other contracting powers, on the other, shall conclude severally treaties which may incorporate reciprocal conventional tariffs to be applied on certain special articles if so desired by both parties. The new treaties so concluded shall continue in force for a certain definite period.[65]

As February 1, 1929, the date fixed by the Nanking government for the coming into effect of the new national tariff, ap-

[62] United States, *Treaty Series,* No. 773. Ratifications were exchanged at Washington, February 20, 1929, but by the terms of the treaty its provisions did not become effective until four months later—long after the Chinese national tariff had been put into operation. Blakeslee, *op. cit.,* p. 11.

[63] Some of these treaties deal tentatively with extraterritoriality.

[64] *China Year Book,* 1926, p. 1134. [65] *Ibid.,* p. 1128.

proached without the making of such a special treaty as the Japanese desired, Japan gave its consent to the new tariff for one year. Before the year had expired such a special treaty was in process of negotiation, and on March 12, 1930, a Sino-Japanese Tariff Agreement was initialed by Mr. Shigemitsu, the Japanese *Chargé d'Affaires*, and Dr. C. T. Wang, and signed on May 6.[66] An annex provides for reciprocal treatment of certain articles produced by the two countries. On a long list of goods, including cotton goods, fishery products, and wheat and flour, produced or manufactured in Japan, the Chinese Government agrees to maintain the existing import duty as the maximum rate for three years. By the signature of this agreement China has gained not only practical tariff autonomy, which it possessed before the agreement, but legal tariff autonomy, for which Japan's consent was necessary.

On February 1, 1929, the new national tariff carrying rates between 7½ per cent and 27½ per cent ad valorem, with a free list for cereals, flour, books, etc., went into effect amid popular rejoicing, and, in the graceful Chinese phrase, the nation was "bedewed with its advantages."[67] But rare will be the fortune of China if it succeeds in avoiding the plagues of the factory system and the host of evils which wait upon "the encouragement of vital industries necessary for the economic self-sufficiency of a state in time of war."[68]

Likin.

Likin did not come to an end but continued to hamper trade. Professor Bau says[69] that it

is a provincial revenue collected and expended by the provincial authorities, now generally known as *tuchuns*, *tupans*, war lords, or what not. If the Central Government should be in full control of these provincial satraps, the abolition of likin might be effected with no great difficulty and delay. Now, as it is well known, because of civil

[66] *Week in China*, May 10, 1930.
[67] See Tyler Dennett, *Americans in Eastern Asia*, p. 149.
[68] *Problems of the Pacific* (1927), *op. cit.*, p. 239.
[69] *China and World Peace*, p. 73.

war and the breakdown of the central authority and the assumption of power by these *tuchuns*, or *tupans*, who virtually regard themselves as uncrowned kings of their realms, the abolition of likin has become a concomitant question with the assertion of the central authority, the abolition of *tuchuns*, and the unification of China. Added to this are the attendant obstacles of finding a substitute of revenue to replace likin and a livelihood for those thousands of Chinese now subsisting on the collection of likin.

It was not the existence of such exactions that directly embarrassed trade, but the uncertainty of their number and amount which made it impossible for merchants to make prices; if they can know the amount with certainty they can transfer it to the consumer. To remove the disturbing element, the manager of the Standard Oil Company arranged with Mr. Soong, Minister of Finance, to pay the Nanking treasury a fixed amount for likin and other internal taxes. All exactions levied on the Standard Oil Company are credited against this obligation, and the balance paid annually. If the sum of these payments exceeds the sum fixed, the Standard Oil Company receives a refund from the government treasury. Similar arrangements were made by the Asiatic Petroleum Company, the British-American Tobacco Company, and other large concerns.

The State Council of the Nanking government on January 17, 1930, issued a mandate ordering the abolition of likin throughout all China from October 10, 1930, but it is difficult to see how this can be accomplished in the present turmoil.

Customs Administration.

Foreign administration of the Chinese customs service dates from the T'aip'ing Rebellion which threw into confusion the system of collection. To end this confusion an agreement was reached between the Taot'ai, or prefect, of Shanghai, and the Consuls of Great Britain, France, and the United States, whereby the collectorate of customs was temporarily vested in three foreign appointees. Under this *régime*, which dates from July 12, 1854, duties began to be levied by the foreigners on behalf of the Chinese Government. The system was found to work so satisfactorily

that the continuance of foreign superintendence was solicited by the Taot'ai after the trouble had ended. Mr. H. N. Lay thenceforward became permanent inspector of the Shanghai customs. During the negotiation of the 1858 treaty the Chinese Commissioner assented to an extension of the system to all the open ports, and Mr. Lay was commissioned in the following year to institute an inspectorate at Canton. The service rapidly developed, and without doubt has done much to keep China intact as a state in the stormy days of the Republic. Since the days of Sir Robert Hart, who succeeded Mr. Lay, the customs service has taken on many other functions, starting the postal service, manning lighthouses, etc.

In 1898 the Chinese Government promised to maintain an Englishman as Inspector-General as long as the trade of Great Britain with China should be greater than that of any other country. "But," the Chinese note stated, "if at some future time the trade of some other country at the various Chinese ports should become greater than that of Great Britain, China will then, of course, not be bound necessarily to employ an Englishman as inspector-general."[70]

Japanese trade has for some time exceeded that of Great Britain; the trade of the United States does so now;[71] but under two loan agreements, at present effective, of 1896 and 1898, the Chinese Government promised to continue "the administration of the Chinese Imperial Maritime Customs Service as at present constituted through the continuance of the loan." The longer of these loans cannot be retired by the Chinese Government before 1943.

In the report of Mr. Soong, Chinese Minister of Finance, made public March 3, 1930, the following bears upon the customs administration:

> Until the summer of 1928 the Customs Administration under the nominal control of the Shui Wu Chu at Peiping was a thoroughly denationalized administration, with the Inspector-General jockeying

[70] MacMurray, *Treaties and Agreements with and Concerning China*, I, 105–106.

[71] See p. 237.

between the Legations and the Government for instructions and opinions. In June, 1929, the Shui Wu Chu was abolished and the Customs Administration placed under the Kuan Wu Shu, which is an integral part of the Ministry of Finance. The policy was initiated that while the administrative integrity of the Customs with its civil service traditions would be maintained, the Customs should concern itself solely with the collection of revenue in implicit obedience to the orders of the Government and divest itself of all political and extraneous functions and associations. In so doing the Customs has only improved its position and reputation and increased its usefulness.

Another anomaly which is being remedied is the discrimination which has existed against Chinese in the higher ranks of the Customs service: for fifty years no Chinese reached the rank of Commissioner of Customs. The principle has now been laid down that promotion is based solely on merit and that there will be no recruiting of foreigners for the service except for technical work under the direct instruction of the Minister of Finance. At the same time the Customs is recruiting more highly trained Chinese to the service, and during the year graduates of universities abroad have been admitted after careful examinations. Further, with a view to improving the standard of our nationals in the higher ranks, several present members of the Customs Administration, who are already graduates of colleges in China, have been sent to England and America to study the Customs Administrations there.

Since the inauguration of the new policy of the Government, which has been loyally observed by the present Inspector-General, one Chinese has become a full commissioner, seven have become acting commissioners, one has become a deputy commissioner, and eight have become acting deputy commissioners.[72]

THE PROBLEM OF SHANGHAI

The Development of the International Settlement.

Some of the most important trading communities in China are under the control and administration of foreigners. Save for the International Settlement at Amoy (and of course the Legation Quarter in Peking), however, the United States is interested only in the governance of the International Settlement of Shanghai,

[72] *Week in China* (Peking), March 15, 1930.

SHANGHAI

Reprinted from *Foreign Affairs*, October, 1927.

which has grown into a huge and complicated municipality whose future constitutes a special problem of major proportions.[73]

To the foreign trader in China it is an islet of security in a tumultuous ocean of Chinese trouble—an islet which puts at his service modern granite buildings, electric lighting, factories and warehouses, telephone service, personal security and traffic control, luxurious western hotels, clubs in the English fashion—in short, all the paraphernalia of "civilization."

The great port of Shanghai is situated on a feeder of the Yangtze estuary called the Hwangpoo, which is little more than a tidal channel penetrating some forty miles into the interior where it helps to drain off the waters accruing from the complicated network of interior lakes. A few centuries ago this river barely existed, and much of the countryside north and east of Shanghai is the growth of the last three hundred years. In fact, the entire province of Kiangsu, in the extreme east of which Shanghai is situated, is made up of the silt brought down from central Asian ranges by the "Great River."

[73] Foreign-controlled areas are called concessions or settlements. The term "concession" is applied to an area which is leased for a term by the Chinese Government to a foreign Power on a land tax basis; the local consul makes some leases to foreign nationals which are the subject of transfer. A "settlement" is an area once set apart by the provincial Chinese authorities with imperial consent for the residence of trading foreigners.

The Chinese have recovered nine former concessions. When China declared war on the Central Powers, it took over the German concessions in Tientsin and Hankow and the Austro-Hungarian concession in Tientsin; these seizures were recognized as valid by the Treaty of Versailles, 1919, and the Sino-German Treaty of 1921, and by the Treaty of Saint-Germain-en-Laye, 1919. Further, when China terminated all relations with the old Czarist *régime,* September 23, 1920, it took over the important Russian concessions in Tientsin and Hankow; and in the Sino-Soviet agreement of May 31, 1924, Russia recognized the new status of these former municipal areas. More recently, in the early part of 1927, influenced largely by the antiforeign disturbances in the Yangtze, the governments of Great Britain and China (Hankow) arranged through the Chen-O'Malley agreements, February 19 and March 2, to hand over to Chinese control the British concessions in Hankow and Kiukiang. The latter was retroceded without conditions, but a long detailed agreement was made for the future administration of the British concession area in Hankow. The Belgian Government, after two years' negotiation, retroceded its concession in Tientsin to China in 1929. The British Government, the same year, returned to China the British concession in Chinkiang. The British Government has also expressed its willingness to negotiate for the retrocession of its Tientsin concession. A draft agreement for this purpose has been drawn up and initialed by the British and Chinese delegates, but the final detailed agreement has not yet been signed. See Blakeslee, *op. cit.,* p. 48.

The almost exclusively alluvial soil has made the area around Shanghai a garden of abounding fertility. From it most of our early notions of the fertility, dense population, crowded cities, and refined luxuries of China have been drawn. Five centuries ago Marco Polo witnessed in this province wonders which were not credited until they had been verified by later generations. Here, two hundred years after Marco Polo, the Jesuit missionaries, beginning with St. Francis Xavier, fresh from the squalid cities and barbarous societies of Europe, admired and described for incredulous readers the wonders of an ancient and ingenious civilization. And here a patient peasantry have cultivated their rice and busied themselves with the manufacture of silk from a period long antecedent to the Christian era.

During the hostile operations of 1841 a British naval and military expedition was sent to the mouth of the Yangtze, where Admiral Parker and Sir Hugh Gough amused themselves by knocking down such Chinese fortifications as came in their way. One of the victims of this undignified mode of warfare was the little walled town of Shanghai, which, when the Treaty of Nanking was signed in 1842, was included among the four ports thrown open to trade in addition to Canton. In 1843 Captain Balfour arrived to establish both a "factory," as the old trading posts were called, and a consulate.

As with most other foreign settlements in China, the "ghetto" designated for "barbarian" residence was a mud bank outside the native city. On marshy waste ground along the river bank bought up from the Chinese owners—former holdings of reed beds, paddy field, or garden patch—arose the *hongs* of British firms. To this thriving trading post, foreigners other than British, attracted by the possibilities of the silk trade, found their way. Its prosperity was threatened in 1853 through the capture of the native city of Shanghai by a band of armed bandits, availing themselves of the straits to which the imperial authorities had been reduced by the beginnings of the T'aip'ing Rebellion in southwestern China. Though the presence of a British squadron in the river prevented any attack on the foreign residences, the helpless Chinese, hitherto scornful of the foreign traders, flocked for safety to the post, as

they have done in later times, especially since the establishment of the Republic. For a short time the old "factory" had a wider importance, but the native city was regained by a besieging imperial force, and the refugees were persuaded to return to their homes and leave the post again to its isolation.

The importance of Shanghai had so far advanced by 1856 that the eleven mercantile establishments of 1844 had increased to seventy, with upward of 330 foreign residents (exclusive of their families), and eight consulates. Trade and prosperity grew at a prodigious pace after the opening in 1858, under the Treaty of Tientsin, of navigation on the Yangtze to foreign vessels. But the principal impetus came from the T'aip'ing Rebellion. This outbreak lasted altogether fourteen years, 1851–65, and took a toll in life of twenty millions, besides laying waste huge tracts of China's fairest countryside and leveling thousands of priceless monuments to Chinese civilization. The movement from Nanking, which began in the spring of 1860, rapidly overran the fertile plains of Kiangsu, city after city falling before the barbarous insurgents, named by themselves the "heavenly hosts." Even Soochow, the seat of the provincial government, one of the greatest and wealthiest of Chinese cities, had to be abandoned by the panic-stricken imperial authorities. From this place to Shanghai is a distance of ninety miles. Instantly the port was converted from a peaceful trading community into a vast Chinese city, inhabited by hundreds of thousands of Chinese refugees (driven off their land by the onward sweep of the devastating T'aip'ings) and garrisoned by large naval and military forces of all the Treaty Powers.

Today the old trading post is one of the world's leading ports. In shipping entered and cleared, over thirty million tons a year,[74] some authorities would place it third to London and New York. Its hinterland is the whole of the Yangtze valley basin, containing nearly two hundred million people. The Yangtze is the Mississippi of China. If the Mississippi flowed into the Atlantic with New York as its mouth, the situation would parallel the Yangtze and Shanghai. In these modern days the "Great River" is bring-

[74] Ching-lin Hsia, *The Status of Shanghai* (Shanghai), p. 117.

ing down a wealth of trade (as well as silt) which will grow when peaceful conditions return and enhance still further Shanghai's commercial importance. From the port radiate trade routes to half a dozen treaty ports on China's coast line that concentrate on Shanghai the commerce to and from other sections of China. Roughly it may be said to be the distributing center for a coast line 800 miles in extent. This has made Shanghai responsible for 40 per cent of China's foreign trade and 25 per cent of its transit trade.

The inhabitants of the foreign settlement itself—802,700 Chinese today and only 30,565 foreigners—are crowded within limits of eight and two-thirds square miles. Around the foreign settlement cluster Chinese-administered communities—Chapei, Woosung, Pootung, Nantao, and the old Chinese city—all nourished on Shanghai trade. A fair estimate of the Chinese population of "Greater Shanghai" would exceed two and one-half million. Great Britain alone is said to have invested £150 million in Shanghai. In addition to banks and business houses there are over 250 modern factories which can obtain cheap coal from the Yangtze provinces of Hunan and Kiangsi. Over Shanghai's activities presides a Municipal Council which in 1929 spent about seven million dollars on administration. The old trading post, in short, is the laboratory of modern China, in which all the industrial and scientific ideas of the West are tested and then passed on to interior China.

Legal Status of the Settlement.

The official title of the Settlement is "the Foreign Settlement at Shanghai north of the Yang-King-Pang," but in recent years the name commonly given to it is the International Settlement. Its administrative development has kept pace with its physical growth. The British treaties of 1842, 1843 (supplementary), and 1858 (Treaty of Tientsin) described the "privileges, advantages and immunities" at the newly opened ports as "including the right of residence, of buying or renting houses, of leasing land therein, and of building churches, hospitals, and cemeteries." These treaties contain no authority for a special settlement or municipality and so far as the Imperial Government was con-

cerned the local arrangements were a matter of indifference and were left to the local Taot'ai (superintendent of circuit, and superintendent of treaty-port trade). The legal bases of the status of Shanghai are thus complicated and confusing.[75]

Its status as a municipality was derived by inference from certain "land regulations." The influx within the limits of territory officially assigned as the British settlement led to discussions between the British consul and the local Taot'ai which in 1845 resulted in regulations, approved by the Ministers in Peking, providing that application must be made to the British authorities to acquire land or build houses. These did not satisfy nationals other than British, and after the troubles in 1853 the opportunity was taken to provide a more comprehensive plan not only for the protection and management of the settlement, but for its more comprehensive government. New regulations were prepared by the consuls of the three Powers having treaties with China. The record is not clear as to whether or not these were submitted to the Taot'ai.[76] On July 11, 1854, this document was accepted by a public meeting of land renters constituting themselves a sort of constituent assembly for the future form of government of a large community of foreigners of diverse nationalities. A municipality came into existence with the adoption of these regulations. Article X of the 1854 regulations reads in part:

It being expedient and necessary that some provision should be made for the making of roads, building public jetties and keeping them in repair, cleaning, lighting, and draining the Settlement generally, and establishing a watch or police force, the foreign Consuls aforesaid shall at the beginning of each year convene a meeting of the renters of land within the said limits, to devise means of raising the requisite funds for these purposes; and at such meeting it shall be competent to the said renters to declare an assessment in the form

[75] T. T. Kotenev, *Shanghai: Its Municipality;* and *Shanghai: Its Mixed Court and Council* (Shanghai); Hsia, *op. cit.;* H. B. Morse, *Trade and Administration of China;* Willoughby, *op. cit.;* Manley O. Hudson, "International Problems at Shanghai," *Foreign Affairs,* October, 1927.

[76] Manley Hudson says the Taot'ai agreed to them under the pressure of the disturbed conditions then existing in China. Other authorities agree with him, but Willoughby, *op. cit.,* I, 513, says they were not so submitted.

of a rate to be made on land and buildings, and in the form of wharfage dues on all goods landed at any place within the said limits; and to appoint a committee of three or more persons to levy the said rates and dues and apply the funds so realized to the purposes aforesaid. . . . The committee shall be empowered to sue all defaulters in the consular courts under whose jurisdiction they may be. . . .

Thus was delegated to the governing body of the settlement, comments Hsia, the highest powers in all government, those of taxing and policing the community, though there was a definite acknowledgment of Chinese sovereignty. An annual land tax was to be paid to the Chinese Government.

At this time it was the intention that the entire body of foreign residents assembled on that part of Chinese soil should combine to form one body politic, administered without regard to nationality. But international jealousies proved too powerful, and as residents began gradually to settle within the so-called French and American areas, the consuls of these nations supported a resolution to start a separate administration for each settlement. The consequence of this independent action was that while the British settlement, which comprised nine-tenths of the wealth, population, and trade, was comparatively well laid out, drained, and guarded, the settlements on each side remained for years in a condition of primitive wildness and insecurity. Not until the events of later years brought a large Chinese population within the elastic limits of the French settlement was its Municipal Council placed in possession of funds enabling it to carry out adequate works of draining and road making.

The French settlement remains to this day a separate administrative area, but the American settlement (as a separate administrative area) lasted only from June to October, 1863. After this brief period of independence a "committee on roads" recommended that the management of the American settlement be taken over by "the existing municipal council on the English Concession," and then by action of the local consuls it was merged with the British settlement. No record is known which shows that the consul's original action was sanctioned by the United States Gov-

ernment.[77] For many years the enlarged area was called "the English and American Settlements."

A growing desire to be free of constant reference to the diplomatic body in Peking gave rise to a proposal to establish a Free City of Shanghai under the Powers' protection, but this was abandoned, and instead a third set of land regulations was issued in 1869. If they could not have their free city, the land renters must have more authority. The regulations did not obtain the previous approval of the Chinese authorities but were provisionally agreed to by the diplomatic corps. Apparently, however, there was still not enough elasticity to suit Shanghai, and in 1898 a final set of regulations which had been in delayed preparation for fifteen years was approved by the ministers of eleven Powers. These were sent to the Tsung-li-Yamen (the Foreign Office under the monarchy), but the Yamen never replied; the Viceroy declared through the Taot'ai that the land regulations were not of interest to him, but "should be satisfactorily arranged between the Municipal Council and the Consular Body." In May, 1899, he declared that, except for certain temples and properties used by the Chinese Government, "the entire area of the International Settlement shall be within municipal control," and that the existing regulations shall operate and must be obeyed. In all of the foregoing, however limited and inferential the acquiescence of the Imperial Government, at least there does not appear to be any protest or objection on the part of the responsible Chinese authorities. On the other hand, it would be hard to find in the realm of political experience a situation in which an enclave has been carved out of sovereign territory as a result of provisions for residence and trade or the parallel of an evolution by which land regulations have become a code of municipal government.

Contact between Chinese and Foreigners.

The relations between the Chinese and foreigners in Shanghai have not been happy. On the Chinese side the old resentment against the foreigner has been combined with a nationalist hostility to the treaties giving him a privileged position. Inevitably

[77] Hudson, *op. cit.*, p. 78.

the seed of nationalism found its most fertile soil in such places as Shanghai among Chinese many of whom had been educated abroad or in missionary colleges in China and all of whom had been inoculated with foreign ideas. They were little affected by the argument that there was no representation in the cities under Chinese administration. Inevitably also the strains of relations between different races were soonest felt in the busy metropolis. At its mildest the attitude expressed itself in occasional requests for representation on the Municipal Council; at its bitterest, in demands for retrocession. The foreigners furnished an antithesis to the Chinese attitude in their own deliberate effort to maintain the ways of living, club life, sports, comforts, and luxuries of a Euro-American community, from most of which amenities they excluded the Chinese. No Chinese, for example, were allowed in either the clubs or the parks. Long separation from home and constant practice of half-bullying Chinese underlings combined to produce a sense of complacent superiority which the "griffin" fresh from home quickly acquired and cultivated in his dealings with the Chinese. The so-called "Shanghai mind" is after all merely another illustration of that Spencerian principle of segregation which seeks to prove that the response to a new environment inevitably produces a new type which becomes increasingly divorced from its pristine influences. Professor Toynbee[78] likens it to the attitude displayed in 1908 and the following years by the British communities in Constantinople and Smyrna toward the new Turkish efforts and aspirations, an attitude which "had caused the would-be Turkish reformers to turn to the Germans and so had partly paved the way for the intervention of Turkey in the General War of 1914–18 on the side of the Central Powers." In Shanghai no effort was made to copy the example of the British Concession at Tientsin and admit Chinese to representation, and foreign life proceeded enjoyably from counting house to club and from club to race course or country club unperturbed by the political undercurrents among the teeming native population. Ratepayers' meetings went unattended and the multitudinous affairs of the Municipal Council were left in the

[78] *Op. cit.*, 1926, p. 242.

hands of a ramified, capable, and honest bureaucracy, of which the municipal departments are under British management, and nine-tenths of the employees, excluding the police force, are British.

The Incident of 1925.

No serious troubles within the Settlement were encountered until 1925. Early in that year forty Chinese employees at a Japanese mill were dismissed, of whom six were prosecuted and imprisoned. A strike of over thirty thousand Chinese workers in Japanese mills followed, with the accompaniment of intimidation and sabotage, which developed into an attack on a mill in which a manager was killed and another seriously wounded. Another similar attempt was resisted by the Japanese employees of a mill who in self-defense killed one of the strikers. The Chinese students thereupon took up the cause of the workers, and in the International Settlement on May 30 made a demonstration which, of course, collected a mob. The crowd threatened the Louza police station where arms were kept, until the inspector in charge, fearing a rush but not waiting for it, ordered the police to fire; as a result, twelve rioters were killed and seventeen more wounded. The police head of the International Settlement was absent at the races, although he had had notice of the brewing trouble.

On June 3, the Chinese Foreign Office in Peking presented to the diplomatic corps a note expressing "the most solemn protest . . . for this deplorable incident, for which the authorities of the International Settlement are solely responsible." The diplomatic corps replied the next day, stating that "the crowd, which refused to obey the orders of the police, then attacked them and attempted an assault on the police station. . . . It would therefore result that the responsibility of the events which followed rests on the demonstrators and not on the authorities of the concession."[79]

On June 6, the interested Powers decided to send a diplomatic commission from Peking to Shanghai. This commission, composed of representatives of six of the legations in Peking, including that of the United States, left Peking June 8 and reached Shanghai June 10. After investigating the situation, it entered into negotia-

[79] *China Year Book,* 1926–27, for diplomatic correspondence.

tions with a Chinese commission composed of two representatives of the Peking government. The Chinese commission presented thirteen demands which had originally been drawn up by the Chinese Chamber of Commerce in Shanghai. These included five demands relating to the May 30 affair (apology, compensation, punishment of offenders, etc.) and six demands which related to the general situation in the International Settlement (rendition of the Mixed Court, better conditions for laborers, Chinese to have the right to vote and hold office, Chinese to have liberty of speech and assembly, etc.). The commission from the legations proposed a settlement of the consequences of the May 30 incident but were unwilling to consider the problems created by the general situation, such as those of the franchise and the Mixed Court, and since the Chinese delegation was unwilling to treat on the events of May 30 alone, the commission from the legations on June 18 returned to Peking.

On June 24, the Peking government sent to the diplomatic corps the thirteen demands presented by the Chinese delegates; to these, on October 1, the Senior Minister of the diplomatic corps, in a note addressed to the Chinese Minister of Foreign Affairs, replied in effect that the Powers had already done everything reasonable to settle the May 30 affair and were ready to continue negotiations on the unsettled issues. "All military measures have been abolished, naval detachments re-embarked, the Volunteer Corps demobilized and the measures of security withdrawn." The diplomatic representatives of the Powers, he said,

> are ready to conduct with you to a successful termination, negotiations concerning rendition of the Mixed Court, which were begun some time ago, and they are seriously studying the most practical manner for obtaining the co-operation of the Chinese and foreign inhabitants in the work of the municipal administration of Shanghai.[80]

The Municipal Council on December 21, 1925, sent a check for $75,000 (silver), "as a compassionate grant," to the Senior Consul in Shanghai, to be given to those who suffered from this inci-

[80] *China Year Book*, 1926–27, pp. 935–936.

dent, but the Chinese Foreign Office ordered that it be returned. Recently the amount was increased to $150,000, and was accepted by the Shanghai Chinese.

The incident was the first of a series of clashes with the foreigner which bore the Chinese Nationalist movement along to victory. So dangerous to the safety of the Settlement did the British Government consider the Nationalist excesses at Hankow and other Yangtze cities that in January, 1927, it ordered the dispatch of a defense force of three infantry brigades. Both the Peking and Nationalist governments protested vigorously. On February 4, the United States Minister at Peking communicated an identic message to the Chinese contestants in which he recalled that it had

> been the uniform policy of the foreign residents of the International Settlement and of their Governments to keep the Settlement aloof from [Chinese] factional disturbances and, as far as this could be accomplished, rigorously to prevent it from being utilized by any faction. . . .
>
> In recalling these facts to the Chinese military commanders, the American Government is confident that they will lend their sincere support to the proposal now made—that the International Settlement at Shanghai be excluded from the area of armed conflict so that American citizens and other foreigners may receive adequate protection. The American Government will be ready for its part to become a party to friendly and orderly negotiations properly instituted and conducted regarding the future status of the Settlement.[81]

On February 11, 250 United States marines from Manila were landed in the International Settlement. The Nationalists, who were having the better of the battle with the northerners, gradually drew around Shanghai, and, in view of several incidents that occurred in the vicinity, the diplomatic corps on February 25 issued a declaration of Shanghai's neutrality and called on the Chinese to observe it. The same day British troops were moved out to form a cordon round the Settlement, and, in spite of a good deal of hesitation and confusion, "arrangements for concerted action by the British, French, and American forces, in case the emer-

[81] *United States Daily,* February 7, 1927.

gency arose, seem to have been arrived at."[82] At the same time, from Washington it was reported "on behalf of President Coolidge that as American forces in China were there solely to protect our nationals there was no present intention to place them under a uniform command with other foreign forces."[83]

When the Nationalists at length took over the Chinese area around Shanghai, there were several brushes between the troops guarding the settlement and fleeing soldiery, but, though there was some bloodshed, the trouble died down after the Nationalists had consolidated their gains. That the fear of the British Government had been justified seems to be indicated by a message of thanks "for the prompt and adequate measures taken for the defence" of the International Settlement which was sent to the British Government by 3,000 foreign residents representing more than thirty-two nationalities.

Organization of the Settlement.

One of the results of the Nationalist agitation against foreign privileges was the opening to the Chinese of the portals of the Municipal Council.[84] Among the foreign residents, land renters and ratepayers of the higher grade are eligible to be members of the Municipal Council, and those of a lower grade, while not eligible to be members, are electors or voters. Other foreigners enjoy the privileges of renters but not the voting right. In 1925 there were 2742 ratepayers—1157 British, 552 Japanese, 328 American—and in 1927, 2368 ratepayers out of the foreign population of nearly 35,000. Up to 1928, the Council consisted of nine members, of whom five were British, two Americans, and two Japanese, with no Chinese. In March, 1928, after some years of negotiations concerning Chinese membership, an arrangement was made for the election of three Chinese to the Council, and six additional Chinese as advisers. The Chinese desired an increase of membership to five, with an enlargement of the total membership of the Council to fourteen. The ratepayers of the Settlement at their

[82] Toynbee, *op. cit.*, 1927, p. 370. [83] *New York Times*, May 30, 1927.

[84] Another was an alteration in the status of the Mixed Court in Shanghai. See pp. 189–193.

annual meeting of April 16, 1930, rejected a motion for these changes notwithstanding the fact that the China Taxpayers Association had been led to believe that the proposal would be adopted and had nominated two additional representatives to the Council. But the action of the meeting was reversed by the unanimous vote of a meeting of May 2, 1930, and henceforth, therefore, the Chinese membership will be five to the British six, with one American and two Japanese.[85]

In 1929, Sterling Fessenden, an American, who had been the chairman of the Council since 1923, was appointed director-general. His appointment was part of the program for renovating the administration in accord with the new spirit of coöperation with the Chinese which has also manifested itself in closer social relations. That Shanghai had begun to think in terms of the future rather than of the present was also indicated by the appointment in the same year of Judge Richard Feetham, of the Supreme Court of South Africa, who has had much experience in dealing with difficult situations involving conflicting interests of divergent racial groups, to be expert adviser on municipal problems. The Municipal Council has become apprehensive of the possible results of the abolition of extraterritoriality upon the Government of the International Settlement, and has given Judge Feetham the task, as he defines it, of "the formulation of some constructive plan or scheme which, while giving full consideration to the aspirations of the Chinese people, will at the same time afford reasonably adequate protection to the great commercial and business interests which have been developed in Shanghai."

On December 23, 1929, Dr. C. T. Wang, the Chinese Minister of Foreign Affairs, stated that for the year 1930, the Ministry's task would be to concentrate on the abolition of foreign inland navigation rights in China, the withdrawal of foreign troops, and the restoration of foreign concessions and settlements in China. Undoubtedly the haste of the modern Chinese is due to past procrastination. It may well be that in view of the sincerity with which the Powers are at length meeting Chinese aspirations, a sense of *Realpolitik* will return to China, in place of the "religion

[85] *The China Digest* (Shanghai), May 10, 1930.

of the slogan" against which Hu Shih inveighs. Shanghai, after all, is the heart of the whole system by which a great part of China exchanges its products with the rest of the world. By stopping that heart the trade of China would be paralyzed. As long as the rest of China is a political quicksand, Shanghai is the only financial anchorage for the Government against the rapacity of contending armies, and it is significant that the Central Bank of China keeps the Government's silver reserves in the International Settlement.

EXTRATERRITORIALITY

The Treaty Terms.

The United States, Great Britain, France, Japan, and eleven other Powers have treaties with China which remove their nationals from the jurisdiction of the Chinese courts and subject them to the control of their own consuls or national courts established in China, for trial under their own national laws.

The system was created by the General Regulations of Trade of 1843 which supplemented the Sino-British Treaty of Nanking of 1842. The extraterritorial privileges were extended to other states, mainly through the operation of "most-favored-nation clauses." The principle was skilfully defined by Caleb Cushing in the Sino-American Treaty of Wanghia of 1844.[86] Cushing based his plan on the system of "capitulations" granting extraterritorial rights to Christians in the Mohammedan countries of the Levant,[87] where it had existed for some five centuries.[88]

To the Manchu authorities who had bitterly resisted the trade

[86] Any national accused of a criminal offense toward a national of the other country was to be tried by the laws of his own country. A civil claim must be submitted to the claimant's public authority "to determine if the language be proper and respectful" and then transmitted. "And if controversies arise between citizens of the United States and subjects of China, which cannot be amicably settled otherwise, the same shall be examined and decided conformably to justice and equity by the public officers of the two nations acting in conjunction." (William M. Malloy, *Treaties, Conventions, International Acts, Protocols and Agreements between the United States and Other Powers,* 1776–1909, I, 202 ff.) In 1880 the Treaty of Peking placed such civil claims under the jurisdiction of the officials of the nationality of the defendant, and the right to watch the proceedings was vested in an official of the plaintiff's nationality.

[87] H. B. Morse, *The International Relations of the Chinese Empire,* I, 329.

[88] See note on the Capitulatory *Régime* in Turkey at end of this chapter, pp. 196 ff.

assaults of the West, this extraterritorial scheme was not unwelcome; once commercial relations had been forced on them it was better that the tumultuous and incomprehensible barbarians should be remitted to the discipline of their own authorities with whom alone would lie the blame for failure to pacify them; besides, the system could obviously be established in only a few places and was therefore the correlative of strict limitation on any extension of the treaty-port system.

The system in general works in the following fashion:

(1) Cases between Chinese and nationals of treaty powers are determined by the tribunals of the defendant, and the law of his country is applied.

(2) Cases between two or more nationals of the same treaty power are tried in the courts of that power and the law applied is that of the power concerned.

(3) The Chinese police may arrest a foreigner but must promptly turn him over to his national representatives for trial.

(4) Cases between nationals of different treaty powers are determined by the authorities and laws of the states concerned, according to their agreements.

(5) Controversies between nationals of non-treaty powers and nationals of treaty powers in which the latter are defendants, are determined by the authorities of the treaty powers. When the national of a non-treaty power is defendant, jurisdiction is in the Chinese courts.

(6) In cases between the nationals of non-treaty powers and in cases between such nationals and Chinese, jurisdiction is in the Chinese courts.[89]

Chinese Objections.

A system which met the needs of a situation involving a small number of contacts became oppressive to the Chinese in proportion as the contacts increased; their sense of oppression found expression in a demand for its abolition long before the rise of nationalism. To some extent, the anti-treaty agitation was acknowledged by the Powers. In the so-called Mackay Treaty of September 5, 1902, Great Britain agreed "to relinquish her ex-

[89] See *China Weekly Review* (Supplement) (Shanghai), June 19, 1926, p. 63.

traterritorial rights when she is notified that the state of the Chinese laws, the arrangements for their administration and other considerations warrant her in so doing."[90] The United States did likewise in its treaty of 1903.

Chinese sense of oppression increased greatly with the access of political consciousness after the overthrow of the Manchus. The entry of China into the War helped its position as far as the extraterritorial privilege was enjoyed by enemy countries.

The chief objections to extraterritoriality brought out in the Round Table discussion of the Institute of Pacific Relations in 1927 were the following:

The system is in derogation of China's sovereign rights; it tends to breed envy, dislike, and even hatred of the foreigner.

The Chinese feel uncertain of securing justice in certain foreign courts.

There is a multiplicity of foreign courts and of foreign legal codes, giving rise to a widespread perplexity.

The frequent impossibility of producing at a consular court the witnesses needed in the trial of a foreign defendant tends to give the foreigner a sense of being outside the law.

The procedure of appeal to a court in the home territory of the "treaty power" is unintelligible to Chinese, and often frustrates justice.

Foreigners under cover of extraterritoriality claim immunity from local taxes.

Chinese register as foreign citizens in a foreign consulate and thereby secure immunity even when defying justice.

The system protects smuggling at the treaty ports, of which a vast amount is carried on both by foreigners and Chinese in opium and in such a government monopoly as salt, making it more difficult to catch as well as to prosecute offenders. The officials of foreign governments whose presence is mainly due to an interest in trade are much less likely to be zealous in the enforcement of Chinese law than the Chinese themselves.[91]

Steps toward Revision.

The privileges of Germany and Austria-Hungary were canceled

[90] MacMurray, *op. cit.*, I, 35.
[91] *Problems of the Pacific* (1927), *op. cit.*, pp. 89, 90.

when China declared war against the Central Powers in 1917. The loss was recognized by treaty: Germany by express provision of the Sino-German agreement of 1921;[92] Austria by implication of Article 234 of the Treaty of Saint-Germain, 1919, and by express provision of the Sino-Austrian Treaty, October 19, 1925;[93] and Hungary by Article 217 of the Treaty of Trianon, 1920. Russia was deprived of its extraterritorial rights in 1920 by decree of the Chinese Government, and in the Sino-Soviet agreement of May 31, 1924, pledged itself to renounce them. The nationals of Austria, Germany, Hungary, and Russia are therefore subject to the jurisdiction of Chinese courts. In the same situation are the nationals of most of the Latin-American republics, and of such European countries as Czechoslovakia, Estonia, Latvia, Lithuania, Poland, Rumania, and the Serb-Croat-Slovene State.

The Extraterritoriality Commission.

The Chinese pressed their objections at the Washington Conference. The Powers there represented, desiring to have authentic information concerning the administration of justice in China before committing themselves, appointed a commission "to inquire into the present practice of extraterritorial jurisdiction in China, and into the laws and the judicial system and the methods of judicial administration of China."[94] Owing to the disordered condition of China, the Chinese requested a delay in the meeting of the Commission. In January, 1926, the Commission met in Peking under the chairmanship of Silas H. Strawn, the American Commissioner, and continued until its report was drawn up in September. The representatives of the thirteen Powers making up the Commission, Belgium, the British Empire, China, Denmark, France, Italy, Japan, the Netherlands, Norway, Portugal, Spain, Swe-

[92] The exchange of notes accompanying the Sino-German agreement of May 20, 1921, contained the important assurance: "All lawsuits in China in which Germans are involved will be decided before the newly-established courts, with right to appeal. These lawsuits will be conducted in accordance with the regular procedure. German barristers and interpreters, officially accredited to the courts, may act as counsel during the proceedings." League of Nations, *Treaty Series,* IX, 288; Hornbeck, *op. cit.,* p. 521. A similar provision is contained in Article IV of the Sino-Austrian Treaty of October 19, 1925.

[93] League of Nations, *Treaty Series,* LV, 21 (Article IV).

[94] *Conference on the Limitation of Armament,* p. 1644.

den, and the United States, signed the report. The Chinese Commissioner, Wang Chung-hui, Chief Justice of the Supreme Court of China, attached to his signature an observation to the effect that his approval "of all the statements" contained in the fact-finding parts of the report was not to be implied. The Commission, naturally employing its own standards which, in the disorders of the revolutionary period, China had not been able to meet, found that the existing traditional system had substantial defects which made the immediate abolition of extraterritoriality inadvisable: indispensable codes and laws were lacking, as well as modern courts and trained judges, and such "laws" as presidential proclamations rested upon an uncertain legal basis; the courts had not adequate financial support, nor in other ways were they independent or free from interference from executives or military commanders, and the magistrate courts and police courts did not meet the demands of modern civilization. At the same time the Commission praised the efforts made by China in drawing up new codes, in establishing a limited number of modern courts and prisons, and in investing some specially-trained judges with offices; and it expressly recognized the outstanding defects of the extraterritorial system substantially as they have been outlined above.

The Commission gave its views as to the steps necessary to conform the Chinese judicial system to the minimum essential standard, and in Part IV made certain recommendations:

> The commissioners are of the opinion that, when these recommendations shall have been reasonably complied with, the several powers would be warranted in relinquishing their respective rights of extraterritoriality.
>
> It is understood that, upon the relinquishment of extraterritoriality, the nationals of the powers concerned will enjoy freedom of residence and trade and civil rights in all parts of China in accordance with the general practice in intercourse among nations and upon a fair and equitable basis.
>
> . . . . . .
>
> It is suggested that, prior to the reasonable compliance with all the recommendations above mentioned but after the principal items

thereof have been carried out, the powers concerned, if so desired by the Chinese Government, might consider the abolition of extraterritoriality according to such progressive scheme (whether geographical, partial, or otherwise) as may be agreed upon.

Pending the abolition of extraterritoriality, the modifications to be made by the Powers "in the existing systems and practice of extraterritoriality" would include the following points:

The powers concerned should administer, so far as practicable, in their extraterritorial or consular courts such laws and regulations of China as they may deem it proper to adopt.

As a general rule mixed cases between nationals of the powers concerned as plaintiffs and persons under Chinese jurisdiction as defendants should be tried before the modern Chinese courts without the presence of a foreign assessor. . . . With regard to the existing special mixed courts, their organization and procedure should, as far as the special conditions in the settlements and concessions warrant, be brought more into accord with the organization and procedure of the modern Chinese judicial system. . . .

The extraterritorial powers should correct certain abuses which have arisen through the extension of foreign protection to Chinese as well as to business and shipping interests the actual ownership of which is wholly or mainly Chinese. . . . [And should] require compulsory periodical registration of their nationals in China. . . .

Pending the abolition of extraterritoriality, the nationals of the powers concerned should be required to pay such taxes as may be prescribed in laws and regulations duly promulgated by the competent authorities of the Chinese Government and recognized by the powers concerned as applicable to their nationals.[95]

After publication of the Strawn Report a new criminal code was promulgated on March 10, 1928, and a new code of criminal procedure on July 28, 1928; the new civil and commercial codes under the draftsmanship of the Legislative Yüan, according to the promise of the Nanking government, were to be promulgated before January 1, 1930. The modern courts, of which there were

[95] *Report of the Commission on Extraterritoriality in China,* Peking, September 16, 1926. Washington Government Printing Office. Recommendations, pp. 107–109; for the declaration of the Chinese commissioner, see *China Year Book,* 1928, pp. 447–456.

140 in 1926, were increased to 350 and the modern prisons from seventy-four to eighty-three. Plans were also laid for the improvement of legal education and for taking judicial authority from the local magistrates and transferring it to trained jurists.

Negotiations with the Powers.

In 1928 the Chinese Government negotiated treaties with Belgium, Denmark, Italy, Portugal, and Spain bearing on extraterritoriality. Article II of these treaties declares:

> The nationals of each of the two high contracting parties shall be subject, in the territory of the other party, to the laws and jurisdiction of the law courts of that party, to which they shall have free and easy access for the enforcement and defense of their rights.

But Annex I of the treaties, consisting of an exchange of notes, provides that the above article

> shall be understood to be operative on January 1, 1930. Before such date the Chinese Government will make detailed arrangements with the Italian Government for the assumption by China of jurisdiction over Italian subjects. Failing such arrangements on the said date, Italian subjects shall be amenable to Chinese laws and jurisdiction from a date to be fixed by China, after having come to an agreement for the abolition of extraterritoriality with all the powers signatory of the Washington treaties, it being understood that such a date shall be applicable to all such powers.
>
> By "powers signatory of the Washington treaties" shall be meant those powers, other than China, which directly participated in the discussion of Pacific and Far Eastern questions in the Conference on the Limitation of Armament held in Washington in 1921–1922.

The Belgian Treaty words the condition: "Belgian subjects shall hereafter be amenable to Chinese laws and jurisdiction as soon as the majority of the powers now possessing extraterritorial privileges in China shall have agreed to relinquish them."

In additional annexes, China agrees "that on or before January 1, 1930, the Civil Code and the Commercial Code, in addition to other codes and laws now in force, will be duly promulgated by the National Government of the Republic of China"; and the five

Powers agree that their citizens in Chinese territory "shall hereafter pay such taxes or imposts as may be prescribed in the laws and regulations duly promulgated, provided that such taxes or imposts are not other or higher than those paid by the nationals of any other country."[96] China makes in addition the declaration that, after the abolition of extraterritoriality and other similar privileges, the nationals of these five countries, on the basis of reciprocity, shall "enjoy the right to live and trade and to acquire property in any part of . . . China, subject to the limitations to be prescribed in its laws and regulations." The correlation between extraterritoriality and limitation of residence and travel is thus freely recognized.

Dr. C. T. Wang, Minister of Foreign Affairs, then addressed himself to the Ministers of the United States, Great Britain, France, Brazil, the Netherlands, and Norway. Identic notes dated April 27, 1929, were presented to the three great Powers, basing the desire of the Chinese Government for the abolition of extraterritorial privileges on the "detriment to the smooth working of the judicial and administrative machinery of China" done by the legacy of this old machine, on "the assimilation of western legal conceptions by Chinese jurists and incorporation of western legal principles in Chinese jurisprudence," on the preparation of modern codes, on the establishment of modern courts and prisons, and on the fact "that certain countries, having ceased to enjoy extraterritorial privileges in China, have found satisfaction in the protection given to their nationals by Chinese law and have had no cause for complaint that their interests have been in any way prejudiced."[97]

The United States reply, dated August 10, 1929, after expressing the sympathy of the Government for the aspirations of the Chinese people, repeating the familiar explanation of the rise of extraterritoriality, and pointing out the fact that the United States had never abused its extraterritorial privileges, stated that the Government was persuaded

[96] Wording of the Danish, Portuguese, and Spanish treaties.

[97] *Chinese Social and Political Science Review*, Public Documents Supplement (Peking), July, 1929, XIII, 64; *Current History*, June, 1929, pp. 538–539.

that the sudden abolition of the system of protection by its extraterritorial courts in the face of conditions prevailing in China today would in effect expose the property of American citizens to danger of unlawful seizure and place in jeopardy the liberty of the persons of American citizens.

After referring to the recommendations in the Strawn Report of the reforms which China would have to make before extraterritoriality could properly be relinquished, the note pointed out

that the recommendations aforesaid have not been substantially carried out, and that there does not exist in China today a system of independent Chinese courts free from extraneous influence which is capable of adequately doing justice between Chinese and foreign litigants. My Government believes that not until these recommendations are fulfilled in far greater measure than is the case today will it be possible for American citizens safely to live and do business in China and for their property adequately to be protected without the intervention of the consular courts.

The note closed hopefully with the suggestion that the United States Government would be ready to join

in negotiations which would have as their object the devising of a method for the gradual relinquishment of extraterritorial rights either as to designated territorial areas or as to particular kinds of jurisdiction, or as to both, provided that such gradual relinquishment proceeds at the same time as steps are taken and improvements are achieved by the Chinese Government in the enactment and effective enforcement of laws based on modern concepts of jurisprudence.

The British note of August 10 observed that the promulgation of codes embodying western legal principles represented only a part of the task to be accomplished:

In order that those reforms should become a living reality it appears to His Majesty's Government to be necessary that Western legal principles should be understood and be found acceptable by the people at large no less than by their rulers and that the Courts which administer these laws should be free from interference and dictation at the hands not only of military chiefs but of groups and associations who either set up arbitrary and illegal tribunals of their own or

attempt to use legal courts for the furtherance of political objects rather than for the administration of equal justice between Chinese and Chinese and between Chinese and foreigners.

The general tenor of the replies of the Governments of France, the Netherlands, and Norway was similar to that of the American note, though none of these Governments gave such a definite promise as did the United States, namely, that it was ready to negotiate for the gradual relinquishment of extraterritorial rights. Great Britain and France spoke of the possibility of modifying the existing extraterritoriality status and practice.[98]

China did not approach Japan in these diplomatic exchanges, treating the Sino-Japanese Treaty of July 21, 1896, on which extraterritoriality rested, as having lapsed.[99] It may be observed in regard to the Japanese position that Japan might be willing to quitclaim extraterritoriality for the privilege of leasing land in all parts of China, asserting the correlation between extraterritoriality and the restriction of residence and leasing to the treaty ports. To the Japanese the unrestricted privilege of leasing would be of great value.

In rejoinder to the Powers' notes, Dr. Wang argued that since the Report of the Commission on Extraterritoriality "conditions in China have greatly changed, and in particular, both the political and judicial systems have assumed a new aspect." He referred to the renunciation by the United States Government[100] of its rights in Turkey under the Capitulations, with the statement that the United States Government "has had the satisfaction to find that the life and property of American citizens in Turkey have subsequently received full and adequate protection." He added the inaccurate statement "that the Chinese Government has recently concluded treaties with several other Powers which have agreed to relinquish extraterritorial privileges on January 1st, 1930." The chief contention of the note was that American life and property would be safer without extraterritoriality than with

[98] These notes were all signed August 10, with the exception of the Norwegian note, which was signed August 14. (*Chinese Social and Political Science Review*, October, 1929.)

[99] See pp. 146–147.

[100] The Treaty of Lausanne, however, has not been approved by the Senate.

it, since the protection of Chinese confidence and friendly goodwill would be worth more than consular jurisdiction; and that as long as extraterritoriality continued the Chinese people would doubtless favor the foreign Powers which had relinquished the system. In conclusion Dr. Wang asked the United States Government to "enter into immediate discussions . . . whereby extraterritoriality in China will be abolished to the mutual satisfaction of both Governments."[101]

This dialectic series came to an end with a brief note of the United States Minister, dated November 1, 1929, stating that the United States had gone into the situation sufficiently in its note of August 10, "although it seems to my Government not superfluous to draw the attention of the Chinese Government to the fact that certain events of the past few months cannot but strengthen the opinion that the legal and physical safeguarding of property and of life in China still leaves very much to be desired." The note reaffirms, by direct quotation, the promise given in the note of August 10, to enter into negotiations for the gradual relinquishment of extraterritoriality, if China is willing to do so. It is significant of the attitude of the more popular branch of Congress that on December 30, 1929, Congressman Porter, Chairman of the House Committee on Foreign Affairs, stated that the purpose of the United States to give up extraterritoriality was evident from the fact that the plans for the new American consular building in Shanghai had no provision for quarters for an extraterritorial court.

The British Government, in an *Aide Memoire*, December 20, 1929, handed to the Chinese Minister in London, referred to the importance attached by the Chinese Government to the date, January 1, 1930, and stated that the British Government had hoped that Sir Miles Lampson might have proceeded to Nanking and initiated negotiations on extraterritoriality before January 1, 1930. The civil war in China had made it impossible to carry out this intention. After stating that "a gradual and progressive solution of the problem of extraterritoriality such as is contem-

[101] *Chinese Social and Political Science Review*, October, 1929.

plated by both Governments" would involve "intricate readjustments," the *Aide Memoire* said:

His Majesty's Government are, therefore, willing to agree that January 1, 1930, should be treated as the date from which the process of the gradual abolition of extraterritoriality should be regarded as having commenced in principle. His Majesty's Government are ready to enter into detailed negotiations, as soon as political conditions in China render it possible to do so, with a view to agreeing on a method and a program for carrying abolition of extraterritoriality into effect by gradual and progressive stages.[102]

The Chinese Attempt To Expedite Action.

The State Council of the Nanking government on December 29, 1929, issued a mandate announcing:

For the purpose of restoring her jurisdictional sovereignty, it is hereby decided and declared that on and after (January 1, 1930) all foreign nationals in the territory of China who are now enjoying extraterritorial privileges shall abide by the laws, ordinances, and regulations duly promulgated by the central and local governments in China.

The Executive Yüan and the Judicial Yüan are hereby ordered to instruct the ministers concerned to prepare as soon as possible a plan for the execution of this mandate and to submit it to the Legislative Yüan for examination and deliberation with a view to its promulgation and enforcement.[103]

Forthwith the Chinese Minister of Foreign Affairs distributed to the various legations a manifesto which declared that

the year 1930 is the decisive time, and the actual process of reestablishing Chinese sovereignty by the abolition of extraterritoriality begins on January 1st.

The Chinese Government . . . believes that there is no difference of opinion between those Powers and China regarding the principle involved; and is prepared to consider and discuss within a reasonable time any representations made with reference to the plan now under preparation in Nanking.[104]

[102] London *Times*, January 1, 1930.
[103] *Week in China* (Peking), January 4, 1930.
[104] *Ibid.*

The mandate was widely heralded as constituting the ending of extraterritoriality on January 1, 1930; its natural interpretation, however, supplemented by the manifesto, is no more than that the Chinese Government desires to abolish extraterritoriality in name or in principle, and seeks to do so by a legal process; it has not yet issued the necessary laws or regulations to enforce abolition.

In the United States the declaration of the Chinese Government aroused much comment. "Regardless of the interests involved," said the *New York Times* of December 30, "no self-respecting nation can accept the one-sided abrogation of a treaty without admitting the principle that treaties have no sanctity and may be denounced in part or in whole whenever it is to the convenience of one of the parties to do so." The New York *World* of December 31, 1929, shrugged its shoulders:

> It is difficult to see what our own government . . . can do about it. . . . We can point out . . . that China would be wiser in her own interest to end the system of extraterritoriality gradually rather than to end it in a rush. . . . But beyond filing a protest against abrupt action, taken against our advice and will, there is nothing we can do.

More critical of China was the comment of the New York *Herald-Tribune* of December 29, which stated: "With all goodwill for China we cannot submit to an abrupt, unilateral closing of courts whose jurisdiction is due not to Chinese law, but to an international agreement." No announcement issued from Washington, but the State Department appeared to regard the Nanking declaration in the light of a statement of policy and held that treaty provisions now in force, the result of mutual agreement, could be altered only by mutual agreement, and that the status of Americans in China would remain unchanged until agreements for alteration of their status were reached.[105] This was confirmed by the United States consuls in China in a circular issued to United States citizens[106] stating that the United States Govern-

[105] United States Department of Commerce; *China Monthly Trade Report,* February 1, 1930.

[106] *New York Times,* May 25, 1930.

ment did not consider that the rights of Americans had been altered.

Provisional Court at Shanghai.

Social offenses which seem of grave moment to a European may be venial in the eyes of a Chinese, and the converse of course is true. Furthermore, the rule that a Chinese accused of a criminal offense in one of the foreign settlements in China should be tried by a Chinese court left no room for the principle that a crime raises a general social question, for the Chinese court was indifferent to foreign social standards. In Shanghai, therefore, the British settlement, the most important of the settlements, as early as the middle of the nineteenth century, was pressing for a system under which a Chinese court should take account of foreign interests. On May 1, 1864, a court was opened at the British consulate with a mandarin as judge and a British vice-consul as assessor. The constitution of the court seems to have been vague, though it was approved by the Taot'ai. In 1869 ten rules of this court were promulgated by the British consul after they had been presented to the foreign ministers and to the Tsung-li-Yamen (Ministry of Foreign Affairs), without action by either body. A Sino-British treaty of 1876 known as the Chefoo Convention mentioned the establishment of this mixed court at Shanghai, as well as the British Supreme Court at Shanghai, referring to the duty of the official of the plaintiff's nationality as that of "merely attending to watch the proceedings in the interests of justice." The results of the operation of this court were so unsatisfactory that during the period 1900–1911, when the old *régime* was in dissolution, the foreign assessors acquired practical control both of procedure and judgment. The judges were still Chinese, but they served under the authority of the assessors, and the Mixed Court functioned after 1911 without treaty sanction.

Chinese revolutionary opinion was jealous of anything which diminished sovereignty. While there is no rule of prescription in international law, long practice based on oral understanding or on acquiescence through failure to object to notorious facts might be urged by the foreigners as evidence of an international agreement

under which the increased powers of the foreign assessors would come to have the standing of a treaty right. Chinese pressure was greatly heightened by the Shanghai incident of May, 1925. The British, as part of their conciliatory attitude after this incident, made proposals for a change in the situation and these proposals were substantially those adopted. A three-year agreement coming into effect February 1, 1927, was made between the Shanghai consular body and the Kiangsu provincial government. The court was termed the Shanghai Provisional Court, and was under control of Kiangsu province, although in cases in which an extraterritorial foreigner was plaintiff or complainant, the consul of such foreigner might send an official "to sit jointly" with the judge in accordance with treaties; and in cases which affected the peace and order of the International Settlement, the senior consul might appoint a deputy to watch the proceedings. Within this three-year period it was stipulated that the Chinese Central Government and the foreign ministers might negotiate for a final settlement.

After the Court was brought under Chinese authority it was severely criticized by many of the foreigners in Shanghai on the ground that the judges were under political influence and that judicial standards were not sufficiently high. There was also said to be an unfortunate division between the Chinese judges and Chinese lawyers on one side, and the foreign delegates, municipal police, and the registrar of the Court on the other.

Toward the end of the three-year period correspondence ensued between Minister C. T. Wang and the United States, British, French, Dutch, Brazilian, and Norwegian diplomatic representatives for a solution of the problem presented by the Provisional Court.[107] After some months of conversations and formal negotiation between Chinese officials and representatives of several of the foreign legations, an agreement was signed February 17, 1930 (to go into effect April 1, 1930), by a representative of the Chinese Minister of Foreign Affairs, and representatives of the

[107] During this correspondence the Chambers of Commerce of the International Settlement, in urging their respective home governments not to relinquish their extraterritorial rights, pleaded for the creation of a municipal court under the control of the Municipal Council with jurisdiction over civil and criminal suits arising within the International Settlement.

United States, Brazilian, British, Dutch, and Norwegian legations: The Provisional Court is abolished, and two Chinese courts, a District Court and a Branch High Court are created in the International Settlement, with appeal to the Supreme Court of China. The jurisdiction—although this is stated in the agreement only indirectly—is limited to cases, either civil or criminal, in which Chinese or nonextraterritoriality foreigners are defendants. Appeals from decisions of the Branch High Court lie to the Supreme Court of China. The former privileges of foreign officials are greatly curtailed. No consular deputy or official is to be permitted "to appear to watch proceedings or to sit jointly in the Chinese Court." Foreign lawyers may practice only in cases in which foreigners are parties, and then only on behalf of the foreigners. The Municipal Council may also be represented by lawyers in cases in which the Council is complainant or plaintiff "or the Municipal Police is the prosecutor." In other cases where the Council considers the interests of the Settlement are involved, it may be represented by a consul, "who may submit to the Court his views in writing during the proceedings and who may, if he deems necessary, file a petition in intervention. . . ." All Chinese laws, either now in force or later promulgated, shall be applicable in the new courts, "due account being taken of the Land Regulations and By-laws of the International Settlement, which are applicable pending their adoption and promulgation by the Chinese Government." Asylum appears to be abolished; if any other modern law court in China issues a request for a person (Chinese or nonextraterritoriality foreigner, of course), "the accused may be handed over after his identity has been established by the Court"; in other cases (where the request comes from other than the modern Chinese Courts), there shall be a preliminary investigation in court. The Judicial Police of the courts are to be appointed by the President of the Court, upon the recommendation of the Municipal Council, but the Council shall, so far as practicable, recommend Chinese. These Judicial Police are subject to the courts. The agreement is to continue for three years.[108]

Any case of difference of opinion is to be interpreted by repre-

[108] Text in *Pacific Affairs* (Honolulu), April, 1930.

sentatives appointed, two by the Chinese Government, and two by the Governments of the other signatory Powers, the report of these representatives to have no weight except that of a recommendation.

Relation of Extraterritoriality to the Settlement Question.

While the abolition of extraterritoriality would not abrogate rights of foreign Powers based on treaties or other agreements of international law, e.g., the right to maintain troops or gunboats in Chinese territory, the maintenance of international concessions, etc., it seems probable that the enjoyment of many of the rights created under the settlement status of Shanghai might be completely frustrated. If no courts sit in the Settlement except Chinese courts, executing Chinese laws, the enforcement of settlement by-laws and tax levies will depend upon the willingness of Chinese judges to sustain the powers of the Municipal Council to make by-laws, to levy taxes, and to take property by condemnation for public purposes; in these respects, vital to effective administration, the Settlement could not function without the consent of the Chinese Government.

Private contracts, concessions and leases would cease to have an international character and would become in law subject to interpretation and application by Chinese courts, apparent grants of jurisdiction in derogation of Chinese sovereignty would be restrictively construed, and diplomatic interposition would become improper until local remedies had been exhausted.[109]

Professor Wright points out that in view of the international responsibility of China to foreigners damaged by an inadequate functioning of its courts, China, as an act of grace, might permit, for some time, foreign privileges to continue much as they are at present. On the other hand even if extraterritoriality continues the authorities of the Settlement will be greatly hampered in administration if China should obtain exclusive control of all the Chinese Courts in the Settlement and if the validity of the acts of

[109] Professor Quincy Wright, "Some Legal Consequences if Extraterritoriality Is Abolished in China," *American Journal of International Law*, April, 1930, p. 217.

the council in their application to an overwhelming number of the city's inhabitants should depend on the support of the Chinese judges.

For such situations Chinese practice affords the traditional solution of application to the guild or Chamber of Commerce. This method was successfully used in the recent controversy between the Shanghai Municipal Council and the Chinese ratepayers who refused to pay certain increases of taxes; successful negotiations were conducted between the Council and the head of the Chinese Chamber of Commerce, and through him with other members. The general method of conference settlement is that adopted by the Standard Oil Company, British-American Tobacco Company, and other concerns whose business is on too large a scale to make recourse to the courts desirable.

Extraterritoriality in Japan.

The impatience of the Chinese to abolish the extraterritorial rights is no greater than was that of the Japanese[110] under similar circumstances. In that country the treaties creating extraterritorial privileges were signed between 1850 and 1869. As early as 1871 the Japanese started a campaign to rid themselves of the system, sending the Iwakura mission to Europe and the United States to secure treaty revision and to study western institutions. They introduced legal reforms and modern codes: in 1882 and again in 1886–87 conferences were held in Tokio. In its efforts to obtain reciprocal treaties Japan had the support of a line of United States ministers beginning with Townsend Harris, but the Japanese campaign proved unavailing, because of the coöperative policy produced by the treaties which put change under control of the slowest mover. So, in 1888 Marquis Okuma, Minister of Foreign Affairs, approached the Powers separately. He laid two proposals before the British Foreign Office in the form of a draft treaty and two draft diplomatic notes. Lord Salisbury prepared counter drafts but a combination of circumstances, including an attempt to assassinate Count Okuma, prevented the conclusion of

110 For account of treaty revision in Japan see William P. Ker, "Treaty Revision in Japan," *Pacific Affairs,* November, 1928, p. 1.

the negotiations, and although treaties had been concluded with the United States, German, and Russian Governments on the lines of Marquis Okuma's proposals, the most-favored-nation clauses prevented those treaties from going into effect.

Negotiations with London were resumed in 1893 and resulted in a treaty of July 16, 1894, which determined the jurisdiction exercised by the British courts in Japan. The treaty was not to go into effect for five years, and then was to remain in force for twelve years from the date of its becoming operative. Within the five years similar treaties were concluded with the other Powers, and revised treaties came into force in July, 1899. The first criminal case dealt with by the Japanese authorities was a murder committed by a United States sailor on the day when jurisdiction passed from the United States to Japan.

An interesting commentary on the agitation for the abolition of extraterritoriality in Japan is that in its treaty with China of July 21, 1896, which followed the successful war of 1894–95, Japan insisted on retaining its extraterritorial rights in China, while at the same time withdrawing the reciprocal privileges enjoyed by Chinese in Japan. The mutual recognition of extraterritorial rights by each nation in the territory of the other had up to that time been the normal arrangement for intercourse between Far Eastern countries, and had been expressly stipulated by a treaty between China and Japan signed in 1871. The treaty of 1896 emphasized the claim of Japan to be treated by China as belonging to the same category as the western Powers.[111]

Extraterritoriality in Siam.[112]

The United States took the lead in renouncing extraterritoriality in Siam by a treaty of December 16, 1920. Other states followed this example until, in 1927, extraterritoriality was practically abolished, and provision made for its complete abandonment within the near future.

Extraterritoriality was introduced into Siam by the Siamese-

[111] Ker, *op. cit.*, p. 7.

[112] See Francis B. Sayre, "The Passing of Extraterritoriality in Siam," *American Journal of International Law*, January, 1928.

British Treaty of 1855. Other states shortly afterward obtained the same rights as the British, so that the extraterritorial system was established substantially as in China. It was particularly burdensome for the Government of Siam, since thousands of the Asiatic subjects of extraterritorial Powers (notably of Great Britain, France, the Netherlands, and Portugal) were freed in Siam from the jurisdiction of Siamese courts and the necessity of obeying Siamese legislation.

The first limitation upon the full rights of extraterritoriality was made by the British-Siamese Treaty of 1883, which provided that in three of the northern provinces of Siam, where there were a large number of Asiatic subjects of the British crown, a special Siamese court should have jurisdiction over British subjects. There were safeguards, notably that the British consul might at any time before judgment evoke out of the Siamese court any case in which a British subject might be defendant, when it would be transferred to the British consular court; and that appeals might lie from this court to Bangkok and then, if the defendant were a British subject, the decision on appeal would rest with the British Consul General. Under this system few cases were evoked and in other ways it was so successful that France adopted similar provisions in the Franco-Siamese Treaty of 1904.

A further step was taken by the French treaty of 1907, which applied to all French Asiatic subjects within Siam, but not to French European citizens or subjects. A British treaty of March 10, 1909, renounced the general rights of extraterritoriality for all British subjects in Siam, both European and Asiatic, under various safeguards and guaranties. Those British registered before the treaty went into effect were entitled to be tried by the "international courts," under the same conditions and limitations as those specified in the French-Siamese Treaty of 1907; in all cases in which a British subject should be defendant or accused, whether in an "international court" or in an ordinary Siamese court, a European legal adviser should sit in the Court of First Instance; and in cases in which a British subject not of Asiatic descent should be defendant or accused, "the opinion of the adviser shall prevail."

After the World War, in which Siam took part on the side of the Allied and Associated Powers, the delegates of Siam at the Paris Conference appealed to President Wilson for the abrogation of American extraterritoriality in Siam, and the Siamese-American Treaty of December 16, 1920, was accordingly signed and ratified. It abolished the right of extraterritoriality, subject to the provision that until five years after the promulgation of all the Siamese codes of law, the United States, through its diplomatic and consular authorities in Siam, might evoke any case in which an American should be defendant, from any Siamese court except the Supreme Court, and try the case in its own consular court, subject to any Siamese laws then promulgated. No case has yet been evoked.

In 1924 Siam's adviser in foreign affairs, Dr. Francis B. Sayre, visiting the European capitals in succession, induced the remaining Treaty Powers to sign treaties similar in general to the Siamese-American Treaty. These treaties were all ratified by 1927. The work of codifying the remaining codes is in progress. The right of evocation will cease altogether five years after the promulgation of the codes.

NOTES ON THE CAPITULATORY *RÉGIMES* IN TURKEY AND EGYPT

Historically "the Capitulations"[1] granting extraterritorial rights to Christians residing or traveling in Mohammedan countries are traced back by some ingenious writers to a time preceding the capture of Constantinople in 1453 by the Turks. However far they go back, the system would appear to have its origin in the distinction between Mohammedanism, which accepts the Koran as the only source of human legislation, and the western system of jurisprudence founded on the principles of Roman law and Christian ethics.

[1] These capitulations are sometimes referred to as the "usages of the Franks," for soon after the Treaty of 1535 with the Turks the French took under their protection persons of other countries not represented by consuls, and hence the generic name of "Franks" was given to all participants in the privilege. It has been preserved in the laws, treaties, and public documents of the United States.

> The mussulman law was not made for the foreigner, because he is a non-mussulman; it was, therefore, necessary that he should be subjected to his own law. . . . The mussulman law, that is, the *Jus quiritium*, is the exclusive right and privilege of mussulmans, and it is the *Jus gentium* which governs the foreigner. . . .[2]

From 1535, when the French made the first treaty which guaranteed that French consuls and ministers might hear and determine civil and criminal cases between Frenchmen without the interference of a *Cadi* or any other person, to the present century, agreements between the Sublime Porte and European states gradually withdrew foreigners from the jurisdiction of the local authorities for most civil and criminal purposes.

The example set by France was followed by the English in 1675,[3] the United States in 1830,[4] and many others. These agreements became so numerous that writers on international law came to regard the institution as part of the public law of Europe.

The judicial system set up under the Capitulations worked well from the point of view of the capitulatory Power which attempted to administer justice and not so well from the point of view of the Turkish officials who were deprived of the opportunity of enriching themselves through the bribery and corruption notorious in Turkish judicial administration.

In general, cases involving more than ten pounds were tried before a court composed of a Turkish presiding judge, and two Turkish and two foreign members; civil cases involving less than ten Turkish pounds between a foreigner and Turkish national were tried before a Turkish court in the presence of a dragoman of the interested consulate. Civil cases involving foreigners of the same nationality and those between foreigners of different nationalities were tried by consular courts, except cases involving real property which were tried by Turkish courts. Criminal cases involving foreigners of different nationalities and those involving a

[2] In this respect the Roman law of the classical period offers a striking similarity. Roman citizens were subjected to the *Jus quiritium*—a privileged code of law—and foreigners to the *Jus gentium*—special rules falling short of the *Jus quiritium*. (G. Pelissié du Rausas, *Le régime des capitulations dans L'Empire Ottoman*, 2d ed.; 1, 21.)

[3] *Brit. and For. St. Pap., 1812–14*, Part I, 750.

[4] 8 *Stat. L;* 408.

Turk and a foreigner were tried before Turkish courts in the presence of a dragoman of the consulate involved.

When these Capitulations were entered into, Turkey was outside the pale of international law; but by the Treaty of Paris of 1856, terminating the Crimean War, the Sublime Porte was formally admitted into the society of nations and came within the pale of international law. Turkey's admission to the family of nations, however, did not lead to the abrogation of the Capitulations, and until 1914 it protested against them without avail. On September 10, 1914, taking advantage of the general disorder in Europe, the Porte informed the Powers that the agreements known as Capitulations would be abrogated on and after October 1. The capitulatory Powers refused to acquiesce in the abrogation, and lodged their customary diplomatic protests with the Turkish Government. The issue remained in suspense until the Treaty of Lausanne of July 24, 1923.

Article 28 of that treaty reads:

> Each of the High Contracting Parties[5] hereby accepts, in so far as it is concerned, the complete abolition of the Capitulations in Turkey in every respect.

Annexed to the Treaty are two supplementary instruments, one dealing with the position of foreigners as regards conditions of residence, business, and jurisdiction, the other containing a declaration by the Turkish Government relating to the administration of justice. By the first instrument Turkey allows to foreign nationals free access to its courts on terms of equality with its own nationals. Matters involving personal status, e.g., marriage, divorce, guardianship, succession on death, etc., of foreign nationals in Turkey will be subject to the jurisdiction of the tribunal of the national whose personal status is in question. By the second instrument the Turkish Government goes on record as being prepared to have an investigation made into the judicial system; for this purpose, it proposes to take into its service a number of European legal counselors whom it will select from a list prepared

[5] The Contracting Parties referred to are the British Empire, France, Italy, Japan, Greece, Rumania, and the Serb-Croat-Slovene State. Germany in 1917 and Soviet Russia in 1921 renounced the Capitulations in Turkey.

by the Permanent Court of International Justice of The Hague from among jurists nationals of states which did not participate in the World War.[6]

The United States was not a party to the Lausanne Treaty of July 23, 1923, but it negotiated a separate treaty with Turkey on August 6, 1923. Article II of the Treaty declares the Capitulations abolished:

> The High Contracting Parties declare the Capitulations concerning the regime of foreigners in Turkey, completely abrogated, both as regards conditions of entry and residence and as regards fiscal and judicial questions, together with the economic and financial system resulting from the Capitulations.

The United States Senate on January 18, 1927, refused to approve the Treaty, and the State Department, through Rear Admiral Bristol, American High Commissioner in Turkey, entered into a general agreement of a temporary character pending the

[6] The former Ottoman Capitulations in 'Irāq gave way to the system set up by the Judicial Agreement annexed to the Anglo-'Irāq Treaty of October 10, 1922, under which 'Irāq became a British mandate. The Agreement declares that foreigners who are parties to civil and criminal proceedings may ask that their cases be heard by a court which includes a British judge or judges; that is to say:

(a) Where the court consists of a single judge, e.g., a criminal magistrate's court or a court of a single judge in civil matters, the judge shall be British.

(b) Where the court consists of three judges, e.g., bench courts of first instance in civil matters, courts of session, and the Court of Cassation, there shall be at least one British judge who shall preside.

(c) Where the court consists of five judges, e.g., the Court of Cassation in full bench, there shall be at least two British judges, one of whom shall preside.

Not all foreigners may have resort to these courts. They are open only to the nationals of any European or American state which formerly benefited by the judicial capitulations in Turkey and did not renounce them by any agreement signed before the 24th July, 1923, and of any Asiatic state which is now permanently represented in the Council of the League of Nations.

The Ottoman capitulatory system in the French mandates of Syria and Lebanon gave way to a judicial system constructed on lines similar to that of the British mandate of 'Irāq. (République Française. Rapport à la Société des Nations sur la Situation de la Syrie et du Liban, 1927.) The report goes on to say that "un magistrat français concourait dans toutes les juridictions au jugement des affaires civiles, commerciales et pénales, quelle que fût la nationalité des plaideurs. Lorsque l'une des parties en cause était étrangère, le droit de demander une majorité des juges français lui était accordé. L'instruction en matière étrangère restait confiée à des magistrats français." The aim of the mandatory has been to strengthen the judicial administration to a point where the mandatory might withdraw entirely in favor of the local inhabitants.

negotiation of a new treaty. This subject will be dealt with in a later volume of the *Survey*.

The beginnings of the Capitulatory system in Egypt, like those of the Turkish system, lay in the striking contrasts between the judicial systems of the East and West. Until 1875 in Egypt sixteen or seventeen consulates exercised jurisdiction over their nationals. In addition there were native tribunals. In civil and commercial matters, the defendant was brought before his own tribunal; a native was brought before the local tribunal, and a foreigner before his consular court. The rule *actor sequitur forum rei* was applied. The contracting parties did not know before what court they might be called upon to appear. A desire to appear before a friendly court would lead one of the parties, whenever a possibility of litigation arose, to grab whatever property there might be involved in order to provoke his opponent to sue. A suit had to be brought in as many different forums as there were different national defendants. This often led to contradictory judgments. Appeals from the lower consular courts had to be taken to the country of the foreign national. The judicial administration fell into a state of chaos; the situation was intolerable and reform became imperative.

To rectify these abuses the *Réglement d'Organisation Judiciaire* emerged in 1875. This document established the Mixed Courts of Egypt, outlined their jurisdiction and provided for the selection of the foreign members of the Courts and their tenure of office. District courts were set up at Cairo, Alexandria, and Mansourah, with an appeal court at Alexandria. A district court consists of three judges, two of whom must be foreigners. Appeal court decisions are rendered by five judges, of whom three must be foreigners. The judges are appointed by the King of Egypt and hold office for life.

The Mixed Courts have worked admirably, and this for three reasons: (1) the organization set up is in harmony with the Egyptian sense of national dignity; (2) the Egyptian plays a large part in the judicial administration of the Courts, and (3) in bringing order out of chaos the Courts have rendered Egypt a real service and have gained the confidence of the Egyptian people.

CHAPTER FOUR

ECONOMIC RELATIONS

PERIOD OF CARRYING

IN a broad generalization Adam Smith expressed the striking economic difference between East and West in the early days of modern trade when he observed that the East farmed and manufactured but did not carry.[1] Consequently the West had to come to the East. By more than any other factor the imagination of the western sea rovers had been stirred by the presence in European markets of oriental teas, silks, spices, and porcelain, brought from the East by the overland route. These luxuries were a constant incentive to the navigators to find an all-sea route to "the Indies." With the Portuguese discovery in 1498 of the Cape route, the way was open, and into Asiatic waters sailed first the Portuguese, after them the Spaniards, then the Dutch, and finally the English, who established a trading post or "factory" at Canton in 1684. To the Chinese they were all "ocean men."

A century later the same attraction turned to the East the imagination of America while it was still in the swaddling clothes of nationhood. Sailors, home from the revolutionary wars, circulated in New England tales of the fabulous profits to be made in the "East India trade," arousing Yankee trading instincts with such stories as the one told by John Ledyard of sixpenny North American furs on sale at Canton for $100.[2] New England merchants threw themselves with zest into preparations for the first expedition, equipping the *Empress of China*, which set sail from New York in 1784. From this beginning America rapidly attained a position second only to England as a carrying power in the Orient.

American ships traded mainly in the products of other lands. Trade of American origin was slight, as at this time the United States had little agricultural wealth to export, the barren soil of New England driving the New Englanders to sea as builders and

1 Adam Smith, *Wealth of Nations,* Book II, chap. v (4th ed.), p. 185.
2 Tyler Dennett, *Americans in Eastern Asia,* p. 5.

sailors of ships. China on its part had little necessity to buy, having a fertile soil, which produced every kind of food, and an abundant population which had no equal as agricultural laborers, as makers of clothing, and as handicraftsmen. With the absence of necessity was combined a lack of inclination or even curiosity. China's self-sufficiency was grandiloquently expressed by the Emperor Chien Lung to George III:

> . . . our Celestial Empire possesses all things in prolific abundance and lacks no product within its own borders. There was therefore no need to import the manufactures of outside barbarians in exchange for our own produce. But as the tea, silk, and porcelain which the Celestial Empire produces are absolute necessities to European nations and to yourselves, we have permitted, as a signal mark of favour, that foreign *hongs* should be established at Canton, so that your wants might be supplied and your country thus participate in our beneficence.[3]

Only one commodity was in demand which America could supply. This was wild ginseng, a root which for centuries has been esteemed in China as a cure-all and particularly as an aphrodisiac. If tea is the most celebrated plant of China, ginseng may be called the royal plant, for it was reserved for the use of the emperor and his household, being conferred only as a mark of favor on lesser mortals.

When America started to trade with China the wild ginseng of China was scarce and to save it from extinction its gathering had been forbidden by special decree.[4] The root flourished in New England and in the mountains of West Virginia. Ginseng was thus an early example of a product which although of no local worth may be a valuable article in international trade. To the Americans it was the "useless produce of our mountains and forests" until it came to be exchangeable for the "elegant luxuries" of China. The trade, begun by British Indiamen, received an impetus both from the new demand in China and the essay into the China trade by the New Englanders. The *Empress of China* sailed from New York with over forty tons aboard. For several

[3] Backhouse and Bland, *Annals and Memoirs of the Court of Peking*, p. 333.
[4] *Encyclopaedia Sinica*, p. 206.

years ginseng was America's most important export product to Canton and it remained a factor in Sino-American commerce for over a century.

Another important export article was furs. John Ledyard's story had not been overdrawn, and the American shipowners did a lucrative business which from 1818 to 1827 netted them $300,000 a year.[5] But, in consequence of Russian competition, the price of furs gradually fell, and China's imports ceased altogether about 1825, the current being reversed some decades later when Chinese furs and skins entered into international trade, and became third in importance in China's exports.

Trade was maintained in the face of unexampled difficulties. The political obstacles of relations through the crack at Canton, which was sometimes closed altogether, have already been recounted.[6] Another difficulty was the imposts levied by the local officials at Canton. Though behaving with the hauteur dictated by the Court, they did not omit to line their pockets out of fees, commissions, tonnage dues, import and export duties, and all that goes under the generic term of "squeeze."[7] The Chinese merchants also did well. Though the fur trade was very profitable to the foreigners, it was more remunerative to the Chinese, and the merchants grew prodigiously wealthy, one of them, by name Houqua, valuing his estate in 1834 at $26 million. Some of this, incidentally, later found employment in American railroad building.[8] These merchants, collecting silks and other stuffs from the Chinese makers at absurdly low prices, charged the eager foreigner as much as the traffic would bear, while in return the foreigner had to cut the prices of his wares to meet Asiatic purses. Sometimes the East India Company, which monopolized English trade until 1834, bore losses in order to establish English woolens on the China market. Buying was the *raison d'être* of the first voyages, but a pressure to sell had developed out of the growth of the modern

[5] Timothy Pitkin, *A Statistical View of the Commerce of the United States* (1835), p. 251.

[6] See pp. 7 ff.

[7] Frederick Hirth, in the *Journal* of the North China Branch of the Royal Asiatic Society (Shanghai, 1882).

[8] *Letters and Recollections of John Murray Forbes.*

factory system of the West, and the need for markets caused the Company at one time to insist that the Chinese should sign contracts to accept part payment for their own products in these woolens.[9] Nevertheless the commodity exchange fell far short of an equivalence and the difference had to be met in Carolus dollars, introduced by the Spanish from the Philippines, for which the Chinese retained a fondness until the mid-nineteenth century. In consequence the drain of silver to China was so considerable that up to 1830 Europe had poured into China no less than $500 million.[10]

Americans were also liberal contributors of silver, and many occasions are recorded of American vessels sailing out to China with holds empty save for kegs of Spanish dollars. Generally, however, American vessels shipped American merchandise to Europe, thence, with the proceeds in Spanish dollars but otherwise in ballast, they went on to China *via* the Cape of Good Hope or returned to America and then continued the voyage round the Horn. C. F. Remer has estimated that 60 per cent of the value of the goods brought to China by the Americans from about 1800 to 1835 was in the form of silver.[11] Although the customs records do not show the figures, information from merchants in the trade and the size of imports from China would indicate that about 1812 two or three million dollars annually were exported to China. Dennett writes of a House committee report which in 1819 stated that "the whole amount of our current coin is probably not more than double that which has been exported in a single year to India, including China in the general term."[12] Some indication of the importance of the China trade may be gathered from this observation. It is indorsed by the experience of the most important New York house trading with China which in 1824 reported its exports as follows: specie, $900,000; British manufactured goods, $356,407; American products, furs, ginseng, etc., $60,000.

Traders cast around for a commodity which would pay for their purchases instead of specie. They found it in foreign opium.

[9] Staunton, *Notices Relating to China,* pp. 163–168, quoted in Chong Su—see *The Foreign Trade of China,* p. 275.

[10] S. D. Webb, *Journal of the American Asiatic Association,* June, 1914.

[11] *The Foreign Trade of China,* p. 24.

[12] *Op. cit.,* p. 20.

Opium is said to have been introduced into China by the Arabs as far back as the thirteenth century; at any rate it was known to have been grown in China before foreign opium appeared and to have provoked the issue of an edict against opium smoking in 1729.[13] While the Chinese still showed an indifference to other merchandise that the westerners brought, they took avidly to opium from India, and the traffic throve mightily, even after 1800 when it was declared illicit. H. B. Morse[14] says:

> The explanation of the fact that merchants of the highest repute brought themselves to engage in a trade which we have come to regard as disreputable is to be found in the imperative commercial necessity of lessening the constant flow of silver from the depleted European market.

In their turn the Chinese watched with dismay the drain of silver caused by these swollen opium imports, and to the high moral grounds on which the Imperial Government based its hostility to opium importations there was added an economic argument equally urgent. No mention, however, was made of the commodity in the first treaty of 1842,[15] though this treaty ended a war with England arising chiefly out of the opium dispute, and the traffic became so ramified that it was finally "legalized" in 1858, when an international commission quietly inserted the item in the Chinese tariff. Before and after this it figured for many years as the main import of China, constituting in 1867 as much as 46 per cent of total imports, but at length its long and checkered career came legally to an end by agreement between China and England. In accordance with this agreement, which was signed in 1911, both the trade and Chinese cultivation were declared illegal in 1917. Of late years, however, the illicit cultivation of the plant in China has assumed very large proportions.

Since the trade was mainly in Indian opium, American vessels did not deal extensively in it, and the balance of trade between China and America still ran against America. But the change

[13] C. W. Campbell, *China;* British Foreign Office Handbooks, No. 67.

[14] *Trade and Administration of China,* p. 359.

[15] Opium was declared contraband, however, in the first United States treaty with China, the Treaty of Wanghia, 1844, but the Chinese were left to enforce the provision. See p. 16.

from a net inward to a net outward movement of silver affected the American payments. With China owing money to England, American vessels began to carry bills on London instead of silver, and world settlements, which had been in vogue in the West Indian trade, grew in respect of the China trade out of the simple process which had thitherto prevailed whereby every American vessel squared its account in hard money. Silver payments ebbed and flowed in succeeding years, but since 1888, when reliable Chinese statistics on the import and export of the metal first appeared, the movement on balance has been inward, for, in spite of the fact that in commodity transactions China buys more than it sells, more than compensatory income is received in remittances from Chinese abroad and in payments from abroad to foreigners resident in China. As for the old Spanish dollars, they have been scattered throughout China and may still be found in circulation in certain districts, where they command a premium over the local dollar,[16] which normally has had about half of the value of an American dollar.

Early in the East-West maritime trade the movement of cotton cloth was outward from China. It took the form of nankeens, or heavy unbleached material called after Nanking. Though the East India Company made some headway with its woolens, its cottons could not compete with China cottons. The inventions of Arkwright and Whitney began to turn the tide, but the effect was not great until the railroad and steamship had shortened the distance and lessened the cost of transport between western factory and oriental market. In China these developments of the industrial revolution had two effects: first, they drew China definitely into trade relations with a much shrunken world, second, they broke down the competitive resistance of the Chinese cottage industry, thus altering the basis of commercial relations, which had hitherto rested on an exchange of China's luxuries for a western miscellanea of surplus products, and establishing a trade in cotton goods which grew prodigiously with the years.

In the work of distributing Lancashire piece goods American vessels played a prominent, and for a future competitor, an ironi-

[16] *China Year Book,* 1923, p. 269.

cal part. Scouring the seven seas for cargo they found a remunerative business in carrying English manufactures. In 1833 Shanghai berthed 41,501 tons of American shipping as compared with 35,610 tons of British shipping.[17] Some part of this success was due to the intermittent wars which diverted European shipping from the China trade, but in the main it was due to design and not accident. By the perfection of the American type of clipper ship, which appeared about 1840, American vessels were able, according to Dennett,[18] "almost to monopolize" for a time "the transportation of tea even to England, for they could carry larger cargoes and deliver the tea in shorter time and in fresher condition than could their competitors." By the middle of the nineteenth century half of the foreign trade of China was conveyed in American bottoms.[19] The United States also had the lion's share of shipping on the great Yangtze River, its boats numbering seven out of nine. In 1851 the Americans demonstrated their maritime superiority by issuing a challenge to race an American built and officered ship against a ship built and officered by the British from any European port to China and back for a stake of $50,000. When no acceptance was received the club first raised the stake to $100,000, then offered the Englishmen a two weeks' start. There was no answer to the challenge.

The islands of Japan lay out of the course of ships engaged in the China trade. Whether they took the Cape or the Horn route, they had no need to enter Japan waters. But American shippers, alive to the desirability of trade relations, indorsed the complaints of whalers whose operations in the North Pacific, valued at nearly $17 million in 1853, were attended with difficulties created by Japanese hostility.[20] To a merchant named A. H. Palmer, according to Secretary Clayton,[21] is due "more credit for getting up the Japan expedition than any other man I know of." Palmer was the director of the American and Foreign Agency, commission agents of New York, and to his other distinctions added that of fathering business by circular. Before the Perry expedition he had sent

[17] H. B. Morse, *International Relations of the Chinese Empire*, I, 342–343.
[18] *Op. cit.*, p. 179.
[19] W. E. Soothill, *China and the West*, p. 87.
[20] See p. 18.
[21] G. N. Steiger, *History of the Orient*, p. 368.

fourteen circulars into Japan through the Dutch "factory." But Palmer's hopes had to be deferred until the American flag appeared over the Golden Gate. This event, together with the building of a transisthmian railway, heralded a direct service of steamships between San Francisco and Shanghai, the line passing through Japan waters. The consequent need for coaling stations in Japan was not the least of the factors leading to the Perry expedition.

The opening up of Japan was the last event in the period of America's carrying eminence. Two developments contributed to the subsequent decline: first, the passing of sailing days, and secondly, a turning inward of national energies. Superiority in metallurgy enabled the English to build first their iron and then their steel ships more efficiently and at lower cost than the Americans could. More effective was the development of a profitable internal market in the United States, which offered the lure of higher profits and became even more lucrative during the era of high protection after the Civil War.

America thus entered upon a period of industrial preparation and for that work American pioneers abroad came back to pioneer in America. A better illustration of this introversion than imperfect statistics is furnished in the *Letters and Recollections of John Murray Forbes.* Forbes was a prosperous American merchant prince at Canton. In 1836 he records letters from his brother in America advising him to invest part of his fortune in the new American railroads. Forbes, however, was unwilling to do so, and expressed his belief that they would be a failure, because "the wear and tear proves ruinous." In the following year he returned to Boston to supervise the American end of his flourishing China business, which had been a family concern since the early days of trade, but his interests gradually turned away from China, and concentrated on American railroads! Such a faith in their future developed in him that in 1846 he took a tenth share in buying from the state of Michigan its road, a quarter completed, of which he later became president. Extending his holdings to other systems, he passed the remainder of his life as a railway executive.

America, like Forbes, turned its back on the sea, which had yielded such rich experience, and devoted itself to the enrichment of national life. Eclipse as a world carrier came in the seventies. In 1871, 43 per cent of the China carrying trade was American but the proportion had declined to 5 per cent by 1877. The detailed extent of the decline, which has never been repaired,[22] may be gathered from the following table of China shipping at different periods:[23]

	1864 *Tons*	*1874* *Tons*	*1884* *Tons*	*1894* *Tons*
British	2,862,214	4,738,793	12,152,949	20,496,347
American	2,609,390	3,184,360	2,140,741	129,127
Total	6,635,485	9,305,801	18,806,788	57,290,389

DEVELOPMENT OF PACIFIC TRADE

Industrial preparation after the Civil War was accompanied by an activity in cultivating Chinese taste for the commodities which were the first fruit of American internal development and its means of payment for industrial equipment from Europe. Of these flour and kerosene "created as great a social revolution in China as did the advent of tea and the introduction of gas into England."[24] The more spectacular was kerosene, which lengthened the working day and increased the output of China's home industries immeasurably. A piece of rush dangling over the side of a saucerful of vegetable oil formerly illumined the night hours of the Chinese, but the light was dim, the smoke and soot were unhealthy and disagreeable, and relatively to kerosene this means of illumination was uneconomical.

A successful assault on this mode demanded a new technique in marketing foreign goods in China. The system in vogue was calculated neither to open markets nor reduce prices. The foreign manufacturer loaded his merchandise onto the home quays for consignment to the foreign merchant at the treaty port. On his part the foreign merchant, immured in the treaty ports, turned the incoming goods over to his Chinese associates who handled and disposed of them over a long line of Chinese middlemen. To meet

22 In 1928 the American quota in China's carrying trade was 4.17 per cent.
23 H. B. Morse, *Trade and Administration of China*, p. 313.
24 E. H. Parker, *China, Her History, Diplomacy, and Commerce*, p. 135.

the potential demand the foreign manufacturer's best plan is to deal directly with the Chinese consumer. "Foreign traders can only hope to dispose of their merchandise in proportion to the new tastes they introduce, the new wants they create, and the care they take to supply what the demand really means."[25] Appreciating this desideratum the Standard Oil Company in the nineties developed and controlled a low unit price to the ultimate consumer and then equipped and sent all over China an army of agents to demonstrate the economic merits of kerosene with a smokeless oil lamp which could be purchased at a nominal cost. Within a comparatively short time the company had overcome the difficulties of custom, language, communications, and currency, and had ushered kerosene into the category of Chinese necessities.

The citadel of Chinese prejudice or conservatism was thus discovered to be guarded only by that sense of the practical which is the inevitable accompaniment of low living standards. Chinese poverty does not allow the people to experiment with the merely new-fangled, but when they have been persuaded by actual demonstration of the economic merits or superior virtues of an article, their "sales resistance" vanishes, whether the merchandise be foreign or Chinese. As soon as it found that kerosene appealed to Chinese practicality, the Standard Oil Company brought to the work of distribution as ramified an organization as it had introduced in the field of merchandising. A line of tankers appeared on the Pacific run which fed innumerable tanks along the China coast and rivers. Sometimes these tankers, drawing as little as six inches of water, navigated tiny creeks into the heart of China, pumping their load into a wayside tank for conveyance by cart into the villages. This campaign, which was the precursor of high-pressure salesmanship by thirty years, enabled kerosene to jump to the forefront of American trade, the quota in 1928 being 17 per cent of the total exports to China.

Direct merchandising was then copied to push the sale of tobacco, the first product that the United States had in excess of home requirements. That its disposal among China's millions early attracted attention is indicated by Congressional speeches

[25] Sir Robert Hart, *These From the Land of Sinim*, p. 60.

in 1843 prior to the dispatch of Caleb Cushing to China. Representative Holmes of South Carolina, for example, exclaimed, "No man now had it in his power to estimate how much of our surplus productions might be sold in that almost boundless country, and how much of our tobacco might be there chewed in place of opium."[26] The difficulty in part was the old trouble of price. This was overcome by the adoption of the measures followed by the Standard Oil Company. An army of salesmen, directly employed by the foreign manufacturers, invaded the country, and purveyed cigarettes at unit prices within reach of almost the meanest purse. The campaign resulted in the creation of a market for American leaf tobacco and cigarettes amounting in 1928 to 27 per cent of the total United States exports to China.

The success of these direct methods induced other manufacturers of staple commodities in the general category of consumption goods to export to China their organizations as well as their goods. The movement was expedited by the progressive concentration of American industry. With the financial resources gained from mass consumption in the home market, corporations were able to nurse a demand in the Chinese market, sometimes with under-cost prices. Sewing machines thus became a necessity in the Chinese household. California raisins captured Chinese taste; indeed the rapidity with which raisins circulated throughout China gave rise to the saying that in that country they mark the limits of the penetration of western civilization. Of all western commodities few have gone deeper than American kerosene, flour, tobacco, and raisins, and few have been more potent in undermining what was formerly regarded as prejudice against foreign goods.

Such ambitious efforts to establish western commodities in China reflect the hold on western imagination of the possibilities of trade with the four hundred million inhabitants. These potentialities are so fascinating that they once formed the excuse for an American refusal to entertain an international proposal of disarmament. "The United States," said Captain (later Admiral) Mahan at The Hague Conference of 1899, "will be compelled by facts, if

[26] *Congressional Globe,* February 28, 1843, p. 325.

not by settled policy, to take a leading part in the struggle for Chinese markets, and . . . this will entail a very considerable increase in her naval forces in the Pacific, which, again, must influence the naval armaments of at least five Powers."[27] Population, however, may be a snare and a delusion as an index to buying power. H. M. Stanley used to stir Manchester audiences by drawing eloquent pictures of the prospects of commerce with Africa when the naked negroes of the Congo should have been persuaded by missionaries to wear clothes at least on Sundays. When the natives had further learned to cover their nakedness on week-days, the looms of Lancashire were to know no cessation of activity. Similarly the late Wu Ting-fang was wont post-prandially to hold forth on the great accretion to trade which would result when the Chinese should have been induced to add half an inch to their shirt-tails. But like African, Chinese buying power is at present restricted. In spite of the early fables of the sated East, it is a bitter fact of modern experience that hunger is the dominant problem of China. Economically China is what Dr. Goodnow[28] calls a vegetable civilization, meaning that the people are dependent mainly upon the plant world for their food and clothing. In this department it is not self-supporting. Population has been outracing available food supply since the days when Chien Lung declared China's independence of the world. It is estimated that one out of every eight Chinese, or fifty million people, are in a state of starvation or semi-starvation.[29]

Baron Takahashi,[30] rating the wealth of China at $52 billion, shows that it is surpassed by the United States, Great Britain, Germany, and France. On this basis China's *per capita* wealth would be $130 as compared with $3,500 for the United States. In other words, the average American is between twenty-five and thirty times wealthier than the average Chinese. Wealth in China is also so thinly spread through division of labor and ownership,

[27] British War Origin Documents, I, 231, Doc. 282, *Note on Limitation of Armament.*

[28] F. J. Goodnow, *China: An Analysis,* p. 39.

[29] Fang Fu-an, *China Critic* (Shanghai), February 6, 1930. See also p. 71.

[30] Quoted by Charles Hodges, in a paper contributed to *American Relations with China,* Johns Hopkins University.

family responsibility, and the prevalence of home industry that even in this vast country many articles of a nonconsumable variety find no market at all. Take, for example, the case of China's premier industry, agriculture. With agriculture employing about 350 million Chinese, it might be thought that China presents a vast potential market for the tractors, harvesters, and threshers of America, but agriculture in China is divided into tiny holdings, of which five acres would be a good-sized farm, and is therefore in no position to support elaborate machinery. Another important occupation in China, as a sideline to agriculture, is egg production, probably the greatest in the world. Nevertheless it must not be supposed that China can consume patent henhouses and patent chicken-food, for the poultry raisers in China are millions of housewives, each raising a dozen or so chickens which have to find their provender as best they can.

Buying power has other restraints besides that of low *per capita* wealth. Of prime importance is internal disorder, with its consequences in high cost of transport and crippling taxation. Rapacious war lords contending for power have practically reached the limits of direct taxation, having in one province, Szechwan, collected the land tax thirty-one years in advance.[31] If they have no mercy on the people who live on the ragged edge of penury, they have less consideration for the merchants engaged in making, moving, and disposing of goods. China, being an agglomeration of quasi-independent units, is not endowed with the blessings of internal free trade such as has developed the commercial greatness of Germany and the United States. For years past inland taxation on native trade has known no bounds. The handicap is enhanced by such a lack of system that exports as well as imports receive the attention of the tax collector. Eggs and egg products are among the most remunerative of China's exports, but this fact does not save a new-laid egg on its way from farm to port from being subject to a customs duty, produce and examination taxes, educational taxes, and charitable taxes, besides many varieties of likin levies.[32] Consequently it is not to be wondered at

[31] Fang Fu-an, *op. cit.*
[32] *British Chamber of Commerce Journal* (Shanghai), May, 1929.

that trade is too dammed up by oppressive exactions to take advantage of the premium on exports which the low price of silver in relation to gold is at present conferring on China.

Until 1927, when the Nationalist movement against China's treaties gathered momentum, taxation operated in favor of foreign goods. Foreign goods were subject to a treaty tariff at the port and a transit tax, both clearly defined. The result was that Oregon lumber imported to Shanghai paid an import duty of 5 per cent while timber from Kweichow had to pay total duties up to 17 per cent on its way to Shanghai; cotton could be sent more cheaply from the Yangtze Valley to Japan than to the native city of Shanghai; and wheat moving from Minneapolis to flour mills in Hankow cost less than the conveyance of wheat from comparatively near provinces. In 1929 China won relief from treaty restrictions on its tariffs, and has put into operation a schedule of duties more in accordance with the situation of its domestic industry. Internal levies, however, have not been systematized, nor have they been abated, and nowadays operate indiscriminately against foreign and native goods. Taxes and other manifold hindrances to trading within China account for the fact that from 40 to 50 per cent of all goods entering China are absorbed by the inhabitants of the treaty ports.

The Rise of Japan.

Japanese success in surpassing China in commerce with the United States is thus not difficult to explain. In 1860 Japan's trade with the United States was $194,000, whereas China's was $22,473,000, but in 1890 the comparative figures were: China, $19,207,000; Japan, $26,336,000. While China, because of its size and resources, could afford until the nineties merely to tolerate foreign trade, Japan was in a less favorable condition, being both poor and small. The statesmen of the Restoration were quick to perceive that if Japan were to become a great power in the modern world it must derive from without the financial instruments of strength. It obtained money wealth out of war, particularly the Sino-Japanese War of 1894–95, but chiefly it secured remittances through the selling of goods and services abroad. Japan's exports,

which until the eighties were merely the overflow of hand products, became the concern of national policy. Paternalism under the feudal system was carried over into the management of commercial intercourse and the Government breathed regulation so vigorously into every department of commercial activity that Japan presents today, except for Russia, the outstanding example of government in business. Writing of government aid in the disposal of cotton goods, a recent investigator says that the Japanese Government pays half the expenses for "study journeys" by commercial travelers in the cotton trade.[33]

To accomplish their ambition Japan's statesmen proceeded to harness the country to a specialized economy. The first effect was felt in cotton. Cotton used to be grown in Japan, where the materials were carded, spun, and woven in the household, but when it was found cheaper to import cotton for the new factories, native cultivation was allowed to wane. The new source of supply was the United States, and the importations advanced so rapidly that in 1929, 42 per cent of all Japanese takings from the United States consisted of this commodity. Of late years the tendency has been markedly upward, because the Japanese industry is turning out finer goods which require medium-staple raw material from the United States. In 1924 India supplied twice as much cotton to Japan as did the United States, but since 1927 the two grades have practically dominated the Japanese market, with China a bad third.

The trade in raw cotton is of peculiar importance to the United States because the ratio of the output sent abroad is higher than that for almost any other commodity. It is also the principal export commodity of the United States, constituting 15 per cent of total exports of which the Far East takes 18 per cent.

United States cotton now appears in the Far East almost solely as raw material. In the sixties cotton goods manufactured in the United States rated high in China's imports. United States machinery equaled that of China's main supplier, England, and the advantage of drawing readily on native raw material saved the cost of transport from plantation to factory. But the trade fell off with

[33] Arno S. Pearse, *The Cotton Industry in China and Japan.*

the decline of shipping. Of more importance, however, was the Civil War, when trade stopped altogether, and not until 1870 was the export of manufactured cottons resumed in any quantity. By this time much of the trade had been won away from the United States. In place of the United States Japan entered China as a competitor of England, and the goods handled by both these suppliers advanced so rapidly in Chinese consumption that they now sell to China 90 per cent of all the cotton piece goods which that country imports, with the United States among the miscellaneous suppliers.

Policy dictated the transformation of Japanese cotton fields into mulberry plantations. Silk culture was necessary to pay for the importations of raw cotton and other materials for industry. Japan determined to win a place in the supply of the commodity which first lured western mariners to the Orient. At that time China silk held undisputed sway in the world market, but it was too weak to suit the American machines, and no effort was made to improve it. Japan set to work to fulfil American requirements. Quality was bettered by the introduction of scientific methods in the rearing of silkworms and the reeling of silk from the cocoon. The Japanese Government subsidized silk manufactures and established testing houses so that the consumer might learn the strength and quality of any particular brand of silk. In this way Japan challenged the leadership of China, with its established markets and natural advantages, and eventually overtook it.

Even before the World War America imported three times as much Japanese as Chinese silk and in 1929, when silk occupied first place among United States purchases from abroad, the advantage in favor of Japan was sevenfold. Realizing at length the importance of the American demand, the Chinese had in 1922 cooperated with the United States Testing House of New York in establishing a testing house in Shanghai. This was later transferred wholly to the Chinese. For all practical purposes the silk industry of China still remains relatively antiquated. That it has maintained any position at all on world markets is a tribute to its natural excellence; otherwise, says the Statistical Secretary of the Chinese Maritime Customs, in his 1928 report, the trade "could

hardly have survived the rough and ready methods of production which have been so slow in changing." This official goes on to offer a warning to the silk men of China which has often been uttered in these reports:

> A change must be made and that soon . . . science [must be] substituted for rule of thumb, if this great source of income is not to be lost. Japan commands the Eastern market, exploiting her own possibilities to the full. China has the means of competing with a superior article, but she must understand that the ruling factor in her foreign trade is not what she offers the world, or what she wants for it, but what the world wants and what it will pay.[34]

A similar metamorphosis has been witnessed in the famous tea trade. No sooner had Japan entered in earnest the lists of international trade than it started to challenge China's predominance in tea as well as silk. More dangerous competitors were India and Ceylon under British auspices. Meanwhile the China tea trade pursued old-fashioned methods, and even today, as the Chinese customs reports affirm, enterprise is lacking. "Foochow teamen," laconically observes the Statistical Secretary of the Chinese Maritime Customs, in the 1928 report already quoted,[35] "appear to be imbued with the idea that the world will buy their tea at any price." The decline of world takings of China tea is the penalty of this attitude as well as a tribute to the zeal of China's rivals. The decline has been from 1,576,136 piculs (a picul = 133⅓ lbs.) in 1908, to 926,022 piculs in 1928. Of America's purchases less than 10 per cent come from China, or about half the quantity supplied by Japan, and the bulk of the trade is in the hands of India and Ceylon. Tea, it is true, is not the popular beverage which it was when the clippers of New England used to race back with it from Canton, for coffee has made a marked inroad in the tea-drinking habits of the American people; but no enterprise from China has ever attempted either to arrest the fall in America's takings of China tea or to promote the habit of tea-drinking. Other producers are vigilant in trying to protect their American market,

[34] Chinese Maritime Customs 1. *Foreign Trade of China* (1928), Part I, Report and Abstract of Statistics, p. 37.

[35] *Ibid.*, p. 39.

the Indian producers, for example, initiating a few years ago an ambitious "drink more tea" campaign.

Prior to the commercial and industrial awakening of Japan foreign trade was entirely in the hands of non-Japanese firms. But the monopoly was undermined by the adaptability of the Japanese people under the aegis of government organization. Not the least of the reasons for the easy transformation of Japan was the pliability of the human material at the disposal of its statesmen. The people allowed themselves to be guided in a manner which demonstrated their essential psychological difference from the Chinese. Instead of patriotism the Chinese with their background of four thousand years of civilization have a kind of racial pride which is politically based on family government. The enlargement of fealty to the state, which is the task of the present generation, has to beat against an "inveterate sense of locality" which, according to Mill, is the bane of improvement. In Japan, on the contrary, roots are not so deep, and the people derive their genius from an eclectic adaptation of alien civilization. This eclecticism was brought to bear on the nationalistic civilization imported by Commodore Perry. So easily were familism and feudalism amplified into nationalism that "the inhabitants of the Rising Sun will deprive themselves of everything and will submit to the payment of the heaviest taxes in order to help the government show Europe that Japan is in a prosperous condition."[36]

When statesmanship decreed, customs fell, and new standards came almost automatically into operation. One of these was the advancement of the merchant class in social status. Encouraged by their new position in the social hierarchy, subsidized in their activities, Japanese merchants, with their recruits from the unemployed *samurai*, or knights of the feudal *régime*, became as modern as their Government, starting banks, insurance companies, shipping lines, and branches overseas, through which the mechanism of Japan's foreign trade came at length under Japanese control. That this was no mere imitation of the West is indicated by the fact that the personal support of the new commercial struc-

[36] Joseph D'Autremer, *The Japanese Empire and Its Economic Conditions*, p. 261.

ture of Japan is the familism of the Chinese civilization. Back of all trade stand the five houses of Mitsui, Mitsubishi, Yasuda, Sumitomo, and Okura, which have added to the social strength of oriental families the economic power of trading organizations. Of the five the most important is the house of Mitsui, said to date back as far as the seventh century, which handles 19 per cent of Japan's import trade and 23 per cent of its export trade.[37] All the conditions for rationalization had thus been present and in vogue long before the word was invented and no country now excels Japan in concentration of commerce and its coördination with industry.

The mainspring of this enterprise is the economic urge from government to factory worker to get non-Japanese to buy Japanese products. An example of Japanese methods of merchandising may be taken from the cotton industry.

> The latest move is to send a steamer with samples, prices and experienced commercial men round the world; a floating exhibition which will stop at every important port and thus go to the interested parties instead of asking them to come to world exhibitions where the product of other nations is also shown. Such a floating exhibition must be the finest possible training for young men destined to take leading positions in the export trade of the country. The educational side is never neglected by Japan. There are at any time large numbers of young men being sent out by the cotton mills and export merchants at their expense to the four corners of the world, not with a view to immediate profit, but to gain information and train powers of observation so that they may occupy some day leading positions. Few countries, if any, have as many emissaries abroad as Japan; they do not live in luxury abroad and they are not selected on account of their relationship, but because they are promising young men.[38]

To crown these efforts in the field of foreign trade is the development of a mercantile marine of five million tons steaming far and wide over the oceans. The members of the Perry expeditions could scarcely have envisaged the time that has now arrived when Japan would take America's place as the second carrier in Pacific waters.

[37] *Japan Weekly Chronicle* (Kobe), March 20, 1930.
[38] Arno S. Pearse, *op. cit.*, p. 134.

The Treaty Port System.

In a large degree China's foreign trade still remains in the hands of foreign firms operating under the treaty port system. This system once obtained in Japan but disappeared when the modernization of the country had made it an anachronism. China's littoral and riverine provinces are dotted with foreign enclaves, called concessions, settlements, or leased areas, to which foreign commercial residence is confined. Beginning with the "factory" at Canton, they were thrust upon a hostile China, and were located mainly on mud flats. Now they have blossomed into *entrepôts* of commanding importance, cities so western in appearance that but for the teeming population the traveler would imagine himself in a western metropolis. The main ports of China are all treaty ports—Shanghai, Tientsin, Dairen, and Hankow. Controlling 70 per cent of China's foreign trade, these have been built up by foreign organization, aided by the political advantages possessed by foreigners in China. By far the most important is Shanghai, which is responsible for 40 per cent of China's total trade and 25 per cent of its transit trade, and has grown into the world's third port, being equidistant in shipping time from western Europe and eastern United States, the world's most developed industrial areas. Significant of its influence on China is the fact that under the Nationalist Government it has evolved into a political as well as an economic center of gravity.

Some Nationalist writers speak of the economic chaos which contact with foreign commerce brought to China. T'ang Leang-li says that "the general effect of the linking up of the Chinese economy with the markets of the world has been . . . the throwing into confusion of the delicately balanced economic system of China."[89] But for the treaty ports, and before 1929 for foreign supervision of the customs service, however, the political chaos of China might have disarticulated the country for foreign trade purposes, and China's delicately adjusted economic system might have broken up into local compartments along with the political system.

These treaty ports have endowed China with a metropolitan

[89] *Foundation of Modern China,* p. 78.

economy almost in spite of itself. Nevertheless their influence, though recasting the economic map of China, has not modernized internal trading conditions, and the line from the Chinese seller up-country to the foreign buyer in Shanghai or Tientsin may "date" all the way from a thousand years B.C. to nineteen hundred A.D. It is a line along which Chinese and foreign interests may all play their parts before the goods leave China. At the source the goods may be obtained by outright barter for calico, yarn, or Ingersoll watches. Wool, for example, may be brought to a railhead on camel-back. In all probability it will then be in contact with things foreign until it gets to the mill in Massachusetts. It may be taken to port along a foreign concessioned railroad, or a railroad subject to a certain degree of foreign administration; met by a foreign freighter engaged in the coastal trade; brought to a treaty port for modern handling by a foreign trading organization and a foreign bank; and, finally, if it is to be consigned abroad, it will almost certainly be carried to market in a foreign vessel.

Of late years a mercantile class has arisen in China which is making a bid for control of the mechanism of foreign trade. Custom dies hard in China but this class is gradually moving out of its lowly status and assuming the appearance of an aristocracy. It is indeed the main support of the Nationalist Government at Nanking, but, like the Government itself, its influence on internal development is frustrated by the political discontents. Internal trouble, however, has added to its influence in foreign trade by stimulating the concentration of wealth at the treaty ports for employment by banks and brokers in international commerce. This externalization has made no dent in transoceanic shipping and little in coastwise shipping; it is just beginning to manifest itself in international banking; but in business relations the change is significant. Less than ten years ago the manager of a leading American banking institution in China estimated that not more than 2 per cent of the letters of credit opened for imports with his institution were placed by Chinese firms.[40] The Chinese purchaser, financed by his own banks, which are developing cor-

[40] *Commerce Reports*, U. S. Department of Commerce, July 1, 1929.

respondent relations with banks abroad, is now dispensing with the foreign *hong* by entering into direct relations with the foreign manufacturer. On the export side the same experience holds true. Ten per cent of the total silk shipments from Shanghai, January 1 to May 30, 1929, were effected by Chinese firms,[41] but as compared with the part played by the Japanese in the direct export of Japanese silk, of which in the 1927–28 season they handled 87 per cent, China is still far behind.[42]

PERIOD OF COMMERCIAL LEADERSHIP

The Far East is absorbing American merchandise at a faster rate than the United States is absorbing Asiatic merchandise. The Far Eastern share of American total exports is still only 12 per cent, whereas the United States takes from the Far East 30 per cent of its total imports; but the quota of American exports taken by the Far East, small as it is, has quadrupled since 1891–95, and doubled since 1913—an advance which is not equaled by any other continental area.

The Modern Factory System.

The growth in Asia's imports of American merchandise is the concrete expression of the importation of western civilization and in particular of the modern factory system. By this latter term is meant the absorption of the capitalistic economy of large-scale production, especially with the aid of power-driven machinery. Industrialization in China derives its impulse from a discontent with living standards, as contrasted with those of the West. Hu Shih says with italicized emphasis: "What is needed today, it seems to me, is a deep conviction which should amount almost to a religious repentance that *we Chinese are backward in everything and that every other modern nation is much better off than we are.*"[43] To repair these deficiencies he has repeatedly called upon his fellow countrymen to lay the foundations of a "motor car civilization." This necessitates the recruitment of mechanical power to supplement the superb brawn of China.

[41] *Commerce Reports,* July 1, 1929. [42] *Japan Year Book,* 1929, p. 600.

[43] Preface to Julean Arnold's *Some Bigger Issues in China's Problems* (Shanghai).

It is only through the introduction of modern industrial organization and technology that productivity may be increased, products cheapened, and living standards raised [says D. K. Lieu.[44]] The most pressing need in China today is not to even up distribution, but to add to an insufficient production. Because of existing living standards agriculture has forfeited its right to primary emphasis in China's economic program. Industrialization could not only double the purchasing power of China; it could also give an outlet for some of the surplus labor now engaged in agriculture.

The new aim marks a distinct break with traditional China. Under the economics of the old system stress was placed on the distribution of production rather than on the quantity of production, and this was insured not only by family responsibility but by a refined division of labor on tiny land holdings and in small workshops. The fruits of toil were made to go round in a way that ironed out grievous inequality. Poverty there was, and much of it, but riches conformed to Bacon's dictum by being relatively well spread. Whether the consequences of the factory system in the dislocation of well-distributed personally-related labor and all that this implies may not create as serious a problem as that of increased production is a question which will be presented to a future China. To the present generation the maintenance of existing production will be serious enough. For, though the factory system is still immature, agricultural output is on the decline, owing, not to diversion of labor to industry, but to social disorder. In 1929 China imported rice, wheat, and wheat flour to the value of $100 million, a situation which provoked the chairman of the Bank of China, Li Ming, at its last meeting to say:

It is absurd that we should have imported such incredibly large quantities of foodstuffs. This is a life and death problem, yet the authorities have failed to realize this grave situation, and through petty differences continue to wage war on one another. They have also failed lamentably in the suppression of bandits, who prey on the innocent people tilling the land. I fear that it will not be long before the entire structure of the nation may collapse unless this state of affairs is brought to an end.[45]

[44] *China Critic* (Shanghai), January 2, 1930. [45] London *Times,* May 12, 1930.

The money crops such as silk, tea, cotton, and eggs which pay for these foodstuffs are also suffering from rural disintegration. In two senses, then, the factory system is starving for necessary equipment; the pool of exchange commodities is declining and the smaller pool is being encroached upon to pay for supplementary foodstuffs.

Factory industry in China is impeded by many more difficulties. Not least of them is the dearth of that essential servant to a factory system, communications. Though it has a good waterway system, China has only about 7,000 miles of railroad, or, say, one mile for every 65,000 of population and 500 square miles of territory. As compared with other countries the system is woefully inadequate. The United States has one mile of railroad for every 480 of population and twelve square miles of territory; India's ratio is one mile to 8,000 population and forty-five square miles. Thus, measured by Indian standards of mileage to population, China has yet to add 50,000 to its 7,000 miles. Five of the eighteen provinces of China proper are without a single mile of rail and these five include the richest and most populous, Szechwan, which, situated on the "roof of the world," is hemmed in from intercourse with its neighbors by stretches of mountain ranges which leave it with only one outlet, and that the turbulent Yangtze. It is true that as contrasted with an arrested situation on the railways there is a growing private initiative in replacing footpaths and wheelbarrows with macadamized roads and motor vehicles, of which latter the number in use has increased since 1922 from 8,200 to 38,464,[46] but much more remains to be done before communications will bridge the hiatus between farm and factory which exists today in many parts of the country. To take one of many examples of the inadequacy of transport, the Hankow flour miller can better afford to go to the Dakota farmer to buy his wheat at the prevailing American market price, transport it a thousand miles to Seattle, an additional six thousand miles across the Pacific, and six hundred miles up the Yangtze than to take the wheat as a gift from the wheat basin of Shensi, only six

[46] A. Viola Smith, *Automobile Census of China,* United States Department of Commerce (1930).

hundred miles away; for the human beast of burden, who is the mode of transport of Shensi wheat to the railhead, is about fifteen times as costly as the American railroad.[47] Furthermore, a decay of the existing railway system has gradually persuaded large sections of the country to revert to the primitive mode of transport.[48]

Factories in China, save those operated by foreigners, who are protected by the system of extraterritoriality,[49] are also the prey of the tax collector, regular or irregular, who has bankrupted many otherwise promising corporate enterprises catering to a nation-wide trade. The Nanyang Brothers Tobacco Company, which started operations twenty years ago, has, for instance, suspended business chiefly because of "extortionate taxes on native tobacco, inability to make shipments inland because of wars interrupting railway and steamer services, loss of shipments because of the prevalence of brigandage and because the country has become so poor that local agents are unable to make collections from retailers."[50]

No such obstacle stifles the progress of industry in Japan. Exactly the reverse in fact is the case. "There are few industries in Japan today that do not owe their existence to government initiative."[51] Governmental help does not end with promotion, but is maintained in paternal assistance, sometimes in the form of exemption from taxation and sometimes in the direct form of subsidy. It relates its other economic activities to the stimulation of industry, establishing research laboratories, which are prolific of new ideas and inventions, and encouraging agriculture and fisheries to support the increased industrial population practically unaided so that Japan may obtain the major proportion of its imports in raw materials instead of relying on overseas markets for basic foodstuffs, as England does. Japan's industrial evolution has thus been so ramified and so peculiar unto itself as to unsettle Adam Smith's reflection that "the course of human prosperity . . . seems scarce ever to have been of so long continuance as to enable any great country to acquire capital sufficient for all those three pur-

[47] Julean Arnold, *op. cit.*, p. 2.
[48] *New York Times*, March 30, 1930.
[49] See pp. 176 ff.
[50] *New York Times*, March 16, 1930.
[51] John E. Orchard, *American Geographical Review*, April, 1929.

poses," namely, farming, manufacturing, and carrying.[52] When it developed a merchant marine Japan completed the sequence without allowing any deterioration in its agriculture or manufactures.

Then there are the difficulties incident to transition. In this respect Japan was more fortunate than China in that its problem was rendered much more compact by the difference between the two countries in size and organization. Until 1929, also, China's secondary industries labored under the handicap of foreign treaty restrictions on its tariff.[53] Moreover, Japan was better prepared psychologically for transition. Familism is as yet so deeply embedded in the Chinese genius as to frustrate corporate organization. A joint-stock company, like the state itself, is still an alien conception in China, and familism often degenerates into nepotism. Even public utility companies are rarely founded on share capital or on the security of a particular town, but on money borrowed from banks at rates varying from 12 to 20 per cent, which has to be repaid at every China New Year, the Chinese settling day.[54]

Not until the World War, when the industrial nations of the West were engaged otherwise than in selling, could the Far East be seriously regarded as an industrial area. China started to manufacture for its own consumption foreign-type goods whose importation had been cut off by the disturbance to international trade. The results betrayed lack of preparation and haste in supplying established demand. It was not uncommon to find patches in a sheeting resulting from the failure to mix the different grades of cotton correctly; leather almost as raw as the original hide; matches that blew up by the boxful; and soap as soft as putty. The efforts of Japanese manufacturers were directed toward supplying the markets vacated by western manufactures, and many succumbed to the temptation to get high prices for shoddy articles in a time of near-monopoly. Inevitably much trade was lost when competitive conditions returned, but a good deal of it survived and was added to by Japanese experience and enterprise. This is

[52] *Wealth of Nations,* Book II, chap. v (4th ed.), p. 185.

[53] See pp. 150 ff.

[54] H. M. Department of Overseas Trade, *Economic Conditions in China* (1929).

shown in the rapid upswing in the percentage of Japanese manufactured goods to total Japanese exports; in 1914 this was only 28.3 per cent, but in 1926 it had grown to 41 per cent.[55] China, much richer in resources, does not labor under the same compulsion to pay for imports with the skill of its manufacturing industry. It has a huge home market at its disposal and can afford to concentrate on it. In this market the Chinese factory industry has so far succeeded in improving its output that it is virtually independent of imported cotton yarn and simple consumer goods (though the independence has been gained with the coöperation of foreign factories in China), and has extended its range of products from soap to asbestos and from matches to munitions.

A comparison between the two systems might be based on any number of measurements, but probably the most expressive indices will be found in a statement of the factory population and the *per capita* horsepower at its disposal. In the table below two factors must be borne in mind. First, it omits the foreign factory enterprise on Chinese soil,[56] with its own enrolment of horsepower and labor. This is of such importance that in the cotton industry, for example, Japan alone owns 39 per cent of the spindleage. Second, a factory varies in definition for statistical purposes. The United States provides figures for establishments with an annual sale of products valued at $5,000 or more. In the Far East the index is the degree of labor concentration; in Japan workers are counted where five or more are employed in one establishment and in China where seven or more are so employed.[57]

	Population	*Factory employees*	*Per cent of population*	*Horsepower of prime movers*	*Per capita h.p. of prime movers*
America	120,000,000	9,724,000[58]	8.	35,773,000[58]	.2981
Japan	60,000,000	1,875,000[59]	5.	4,652,000[59]	.0775
China	435,000,000	413,000[60]	0.1	....	....

Thus the amount of horsepower of prime movers, motors, and

[55] *Annual Return of Foreign Trade,* 1927, Department of Finance, Tokyo.
[56] See pp. 252 ff. [57] Date of Census; America, 1925, Japan, 1926, China, 1920.
[58] *Statistical Abstract of the United States* (1928), pp. 749–751.
[59] *Financial and Economic Annual of Japan,* 1928, p. 83.
[60] Ho and Fong, *Extent and Effect of Industrialization in China,* Institute of Pacific Relations, quoting statistics of the Ministry of Agriculture and Commerce.

generators employed in the manufacturing industries is almost four times greater *per capita* in the United States than in Japan. Statistics are lacking in China, but in view of the smaller development of manufacturing, it may be assumed that the proportion of horsepower to factory labor is less than that for Japan.

Factory industry in Japan and China started with, and is still dominated by, the provision of the material out of which their clothes are made, namely, cotton and silk goods. In employment of labor the textile group occupies half of Japan's and three-quarters of China's industrial population. In equipment the industries compare as follows:

	Mills	*Spindles*	*Looms*
Japan[61]	259	7,336,494	78,870
China[62]	73	2,113,528	16,787

There is a further difference in quality of product. Japan has advanced so rapidly in textile manufacture that it is England's most formidable competitor on world markets. Only a fifth of the total weight of cotton piece goods produced in the world enters international trade, but while Great Britain's share has declined from 65 per cent in 1909–13 to 47.4 per cent in 1928, Japan's share, which was insignificant prior to the World War, is now 16 per cent.[63] The situation is the more remarkable because in the great market of India England enjoys preferential treatment.

Japan's success has caused the English teacher to go to its Japanese pupil to find out the reason. Recent investigators have concluded that the success owes nothing to so-called cheap oriental labor. The advantage that the Japanese enjoy in the matter of wages is more than offset by the employment of a larger number of workers to do a given quota of work. If an English worker can produce work equal to the output of four Japanese workers, as one authority asserts,[64] then the higher wage scale is easily offset by greater *per capita* output. In any case labor is a comparatively small element in the price of cotton goods. The foundation of

[61] *Far Eastern Review* (Shanghai), November, 1929.

[62] *Chinese Economic Bulletin,* October 12, 1929.

[63] B. and H. Ellinger, *Journal of the Royal Statistical Society,* XCIII, Part II (1930).

[64] J. W. Robertson Scott, *Foundations of Modern Japan,* p. 71.

Japan's success lies in organization, which, as has already been shown, grew on fertile soil, springing half-developed out of the feudal system and being cultivated assiduously thereafter without any interval of industrial *laissez faire*. The industry is a chain made up of links of buying, shipping, and delivery of raw material at the mills, and of manufacture and distribution of the finished product, all under the control of a handful of men. Such solidification of industry has no counterpart in England save in the finishing sections and subsidiary trades.

The future of the modern factory system in the Far East seems to be limited by relative deficiency in those minerals which are the essential foundation of a material civilization. Measured by these standards the East is receding in potential dominance. While possessing many of the secondary metals, it is lacking in iron, which in the form of steel Foster Bain calls "the skeleton framework within the body of modern civilization."[65] The total ore reserves of the Japanese Empire utilizable under existing metallurgical processes are possibly 80 million tons,[66] excluding South Manchurian deposits under the control of Japanese interests which have been variously estimated between 200 and 700 million tons, mostly low grade. America's reserve is ten billion tons. A mass of data exists on the iron ores of China, but the leading authority, F. R. Tegengren,[67] sums up the situation by saying that "the total quantity of iron ore (both actual and potential) . . . would be consumed by the iron industry of the United States within less than nine years." It is not surprising, therefore, that the Far East provides a market for 20 per cent of United States surplus iron and steel. One exception to the relative paucity of basic mineral wealth in the Far East is the coal reserves of China. These are estimated by the Geological Survey of China at 217,626 million tons,[68] or a *per capita* reserve of 549 tons. The *per capita* reserve

[65] *Ores and Industry in the Far East*, p. 67.

[66] J. H. Ehlers, *Raw Materials Entering Into the Japanese Iron and Steel Industry*, United States Department of Commerce. These figures do not take account of vast deposits of iron sands in Japan upon which research is now being expended.

[67] *The Iron Ores and Iron Industry of China*, Geological Survey of China, p. 29.

[68] C. Y. Hsieh, *General Statement on the Mining Industry* (1918–25).

of the United States is 34,274 tons. On the basis of this comparison Foster Bain observes[69] of the Chinese reserve that it is

> sufficient to furnish power for considerable industrialization, but if China is going to use it with the same liberality per capita that the nations of Western Europe and North America have done, then clearly she has not got a coal reserve sufficient for any long time future.

It should also be borne in mind that most of China's coal is anthracite and non-coking and is located far from available ore deposits.

Effect on Character of Trade.

The success of the factory system in the United States has resulted in a revolution in the structure of American trade. More and more American finished goods are finding an outlet in foreign markets; from 31 per cent in 1910–14 their share of American exports has grown to 44 per cent in 1925 and 49 per cent in 1929.[70] In Asia the rise has been even more marked; in 1910–14 finished goods constituted only 16 per cent of American exports to Asia; in 1925, 44 per cent; and in 1929, 45 per cent.[71] No damage has therefore been done to American factory sales by the industrial movement in Asia. Instead, by elevating living standards, it has intensified demand, notably for tobacco products and kerosene, the main exports from the United States to China. Even in simple manufactures China has a long way to go before it can hope to do more than scratch the surface of the market which the import of foreign-type goods has created. Chinese hides are still shipped back from United States factories in the form of shoes. Bristles are similarly transformed and returned as brushes. For more elaborated commodities such as machinery the factory system in Asia has provided a market which seems destined to grow to major dimensions. Factory and transport equipment and such power-producing articles as dynamos, electric motors, transformers, and steam boilers are the agents of new large-scale produc-

[69] *Foreign Affairs*, April, 1928.

[70] The Philippine Islands, however, are excluded in the figure for 1910–14.

[71] *Foreign Trade for the Calendar Year* (1929), United States Department of Commerce.

tion. Already this group is second in importance to raw cotton in United States exports, and Asia's requirements have helped to lift it into that rank, as is apparent from the fact that from 1913 to 1928 exports of American factory machinery to Asia have increased from 7 per cent to 11.6 per cent of the total exported. Of recent years exports of this group of goods to China have been arrested, owing to the stifling of enterprise by Chinese turmoil, but the increase which marked the period from 1913 to 1925 will inevitably be resumed at the first sign of stabilization.

In Japan, where the market is more limited, the case is different. The import of shoes and brushes and such merchandise dwindled as Japanese factories grew in stature and efficiency. In regard to machinery Japan in 1929 spent about $80 million on railway materials of which only 1 per cent was imported. Japan prefers to buy articles in semifinished form for fabrication into finished goods. For this purpose iron manufactures are second to raw cotton, albeit a bad second, in Japanese import requirements. Of Japanese iron and steel imports in 1928 the United States supplied 26 per cent, and of its takings of copper ingots and slabs the American share was 88 per cent. A large amount of its lumber, which is third in importance in its imports, comes from the Pacific coast of the United States, and forms a necessary element in the construction industry of Japan.

China's arrested buying power for machinery is partly responsible for the fact that since 1925 the share of finished goods in total United States trade with Asia has remained stationary while this classification has been advancing rapidly at the expense of other groups in the total exports of the United States. Another reason is the firm hold of crude materials in United States exchanges with the Far East. The bulk of United States imports from Asia is represented by crude materials. Silk from Japan, rubber and tin from Malaya, wool, hides, and certain metals from China, jute from India—these are the main items. That the United States is eager to buy them is indicated by its tariff policy. Excluding the Philippines, the proportion in 1927 of the value of dutiable to all imports from Asia was 22 per cent as compared with 36 per cent of all imports; in other words, of every $100 of goods from Asia $78 enter duty free.

For the same reason that the United States is seeking more raw materials from abroad it is withdrawing more and more of its own raw materials from the export market to work up into finished exports. The tendency is observable in the trade with Asia as in world trade, but it is not so marked, because the Far East is short of other materials besides minerals, and needs many of American origin.[72] Trade between Japan and the United States consists peculiarly of a raw material exchange. Of Japanese sales on the United States market in 1929, 80 per cent consisted of raw silk; of Japanese purchases from the United States raw cotton represented 42 per cent. Since silk and cotton are the main agents of Japan's prosperity, this exchange has riveted its economy to American conditions. A Japanese industrial leader puts the relation in this picturesque way: "The price of United States Steel Common on the New York Stock Exchange is infinitely more important to the economic well-being of Japan than the current quotation of the yen. In fact, one is cause, the other effect."[73] Adverse conditions in America not only affect the national economy of Japan, they percolate down to the humblest village, for sericulture is not limited to the industrial towns but in the main is a spare-time pursuit of the prolific rural population. Since it helps them to eke out a precarious living on their tiny farms, its value is as much social as economic in keeping the people on the land and in maintaining a balance between agriculture and industry. The work of reeling silk is almost as scattered as the rearing of silkworms or the cultivation of mulberries, and, though in this respect the industry is becoming mechanized, the traveler may see reeling still carried on in sheds attached to country cottages.

In respect of materials in general China is more fortunately situated for industrial expansion and less dependent on imports. Helpful to its premier factory industry is the fact that it is the

[72] A converse situation from that prevailing in the total trade of the United States in raw materials is to be found in the whole of its trans-Pacific trade, i.e., with Oceania as well as with Asia. Since 1910–14 the amount of crude materials exported to those regions has increased from 16 per cent to 26 per cent of the total. American receipts of crude materials from Asia and Oceania have also increased, from 54 per cent to 65 per cent. The development has made the trade on the Pacific Ocean more than ever a traffic in raw materials.

[73] Maurice Holland, *Industrial Transition in Japan,* p. 45.

world's third producer of cotton. To cater to diverse tastes, however, a national cotton industry has to spread its demand for raw material among areas of production yielding uneven qualities of cotton. In China the cotton fibers are too short for anything but coarse material, and to spin the best yarn the best native varieties have to be mixed with American cotton. Hence, as the demand for better goods grows, as it does continuously, the budding Chinese industry as well as the Japanese industry must turn to America for more of its raw material. This is shown in the increased exports of American raw cotton to China and Japan:

UNITED STATES EXPORTS OF UNMANUFACTURED COTTON TO CHINA AND JAPAN[74]

(In Thousands of Bales.)

	1910–14 (average)	*1924*	*1925*	*1926*	*1927*	*1928*
China	14	31	56	172	243	170
Japan	283	675	1,003	1,251	1,437	1,225

This increment has brought the Far East quota of United States raw cotton exports up to 18 per cent.

The prospect of long-term increase in United States raw cotton exports to the Far East is sometimes thought to be darkened by the planting of United States cotton in China, largely under United States missionary and educational auspices. Experiments have long been in operation to prove that in North China United States cotton can be grown and acclimated without loss of quality. "The average [production per] *mow* [⅙ of an acre] of the farmer who used the improved cottonseed has been found to be 79 catties [a catty = 1⅓ lb.] and is 29 catties more than that of the ordinary cotton."[75] This high ratio of improvement is attested by experimental stations throughout the cotton belt. If China were in

[74] *Commerce Yearbook,* 1925 ff. This remarkable movement upward was checked in 1928 by several extraordinary factors. ". . . outstanding feature in Japan's import trade was the drop in raw cotton imports, as a result of heavy stocks and restricted production of yarn in 1928." *Ibid.* (1929), II, 399. From China it is reported in the 1928 customs returns that unusually high prices in the United States and unusually low prices in India caused a veering away from the United States; *Foreign Trade of China,* Part I. *Report and Abstract of Statistics.*

[75] T. F. Tung, *China Weekly Review* (Shanghai), February 13, 1926.

a position to apply this lesson on a large and intensive scale, there might eventually be no need to import United States cotton, and Japan would have a source of supply in China which might compete with the United States. In the present state of China, however, it is one thing to grow improved seed at experimental stations and another to transform cotton cultivation. That much improvement has to be effected in Chinese cotton may be gathered from the fact that whereas the area of land available for cotton cultivation in China is about the same as in the United States, the output is only a fifth as much and the quality a lower grade. The difficulty in regard to silk and tea applies with equal force to cotton; declining quality has been a lament of many reports of the Chinese Maritime Customs. In his 1922 report the Commissioner of Chinese Maritime Customs for Shanghai, for instance, stated: "This continued demand for foreign raw cotton is due to the paucity of China's present cotton crops, which have shown a steady decline since 1918–19 and are quite insufficient for the requirements of the 2,300,000 spindles now operating in the country." He called upon the Chinese to take energetic measures to improve and extend cotton farming, but little has been done, and the extent of the lethargy is expressed in the acceleration of the increase in imports which caused such alarm to the Shanghai commissioner.

Volume of Trade with Japan and China.

At one time the western factory-system nations entertained the fear of an Orient arising out of industrialization which would not only be self-contained but which would flood the world with cheap goods. For reasons already stated this fear has given place to a renewed fascination in the prospects of Asia's millions endowed with western purchasing power. When a nation produces more, it can support a larger population and fulfil more wants, and when China, to which most attention is drawn, does begin to increase production, the effect on two-way trade will be dynamic, and the ownership of the means for satisfying the new demands will call in increasing measure on foreign as well as on Chinese labor to supply them.

The great advance which started in 1890 has made Japan by

far the most important of all the Asiatic countries in American commerce. In a commercial sense the United States is much more important to Japan than is Japan to the United States, as is shown in the following table:

United States Trade with Japan			*Japan Trade with the United States*	
	Per cent of United States world trade	*Per cent of United States Asiatic trade*		*Per cent of total Japanese foreign trade*
Exports to Japan	6	40	Exports to the United States	42
Imports from Japan	9	36	Imports from the United States	28

As a market for United States exports Japan has advanced from tenth to fourth place since 1910–13 and as a supplier of United States requirements has moved up from seventh place to second place.

This is not the whole record of United States trade with Japan. The United States has also dealings with Japan in China which are entered as Chinese imports. On Chinese soil Japan operates railroads, cotton mills, sugar refineries, mines, flour mills, and many other industrial interests, altogether valued at about a billion dollars.[76] Among the requirements of these establishments are large supplies of American machinery, railroad equipment, lumber, raw cotton, and wheat. The Japanese-leased South Manchuria Railway, for example, is at present of far more consequence to American manufacturers of railroad equipment than all the railways in the Chinese government system combined. Though the total trade with these Japanese undertakings is difficult of computation, several estimates have been made. In a speech before the Rotary Club of New York, Mr. M. Uchiyama, Japanese Consul General in New York, said: "It is fair to state that from 30 to 40 per cent of United States exports to China are purchased in this country by Japanese firms for the account of Japanese enterprises in China."[77] George Bronson Rea, publisher of the *Far Eastern Review*, stated that he had been informed that the quota

[76] Masnoske Odagiri, *Japanese Investments in China*, p. 4. Institute of Pacific Relations. Also p. 252.

[77] *Far Eastern Review*, November, 1927.

was "as much as 49 per cent."[78] If 30 per cent be regarded as a reasonable estimate, then of the $120 million (United States value of Chinese customs figures) of China's takings from the United States in 1928, no less than $36 million were destined for Japan in China.

China's share in the trade of the United States is half that of Japan's. Of total imports into the United States in 1928, 4 per cent came from China (including Hong-kong and Kwangtung); of total exports from the United States China absorbed 3 per cent. These proportions put China in the ninth place among importers from the United States and tenth in the list of exporters to the United States. In recent years the positions of both China and Japan have fluctuated more than those of most countries because of the marked price changes in silk and cotton which dominate the trade. In 1923, when silk was bringing high prices, China held fifth place among exporters to the United States, but since then prices have receded considerably, with depressing effects on values but not on volume.

As in the case of Japan, the United States sells much more in China than it buys. In 1870 the American quota of China's imports was about half of one per cent, in 1907, 7 per cent, in 1913, still 7 per cent, but since 1920 it has risen to between 16 and 18 per cent. Since 1910, while China's total trade has only doubled, the American share of it has quadrupled, an increment which has been won mainly at the expense of Great Britain. It is the general verdict of students of this commerce that the American figures would be even higher if the facts of the transshipment trade with China could be unscrambled.[79] In China's customs records imports are

[78] *China Weekly Review*, December 10, 1927.

[79] Julean Arnold, United States Commercial Attaché to China, after estimating that in 1927 the United States possessed nearly 25 per cent of China's foreign trade, says: "America is, without any question of doubt, China's principal customer, as it purchases more of China's commodities than does any other foreign nation. If China's trade with Hongkong were unscrambled so as to assign to each nation the trade which properly belongs to that country, and if due allowance were made for America's trade with China as now credited to Japan, there is a possibility that for the year 1927 America may have occupied first place in China's foreign trade." (*China Weekly Review*, November 10, 1928.) Instead of the $220 million in trade which the Chinese returns classified as American in 1927, Mr. Arnold would therefore make the total $350 million, taking account of the provenance and destination of the transshipment trade.

not credited to the original point of consignment but to the last port of shipment. American cotton from the Gulf ports, often sent to China *via* Kobe, appears in the Chinese returns as Japanese imports; American lumber is often put on board vessels sailing from Vancouver and is recorded in China as having come from Canada; this also applies to machinery built in the United States which is often shipped to China from the same port. The position of Hong-kong makes difficult an evaluation of the United States share of China's imports. Hong-kong appears as a separate trade area in the Chinese customs returns, but in fact originates and consumes few goods, being an *entrepôt* for the distribution of the goods of all nations. According to Dr. Shu-lun Pan 15 per cent of United States imports from Hong-kong may be considered as coming originally from China and 50 per cent of United States exports to Hong-kong may be regarded as ultimately destined for China.[80]

In 1927 and 1928 the relative positions of the different trade areas are given in the Chinese customs returns as follows:

PERCENTAGE SHARES OF PRINCIPAL AREAS IN CHINA TRADE

	Imports from		*Exports to*	
	1927	*1928*	*1927*	*1928*
Japan	28.41	26.39	22.74	23.06
Hong-kong	20.56	18.68	18.47	18.37
United States	16.13	16.99	13.25	12.83
Great Britain	7.26	9.40	6.31	6.16

Several efforts have been made to analyze this huge trade between Hong-kong and China. In 1924 a careful survey stated that 22 per cent should be credited to Great Britain, 12 per cent to Japan, and 9 per cent to the United States.[81] The trend of this investigation is not in accord with that of other investigations. A British authority[82] states that Great Britain can probably claim "a sixth of Hongkong's trade with China," or about 17 per cent, as compared with 22 per cent which is credited to Great Britain by the Department of Commerce. Mr. Gull thinks also that "Japan's exports to China through Hong-kong are larger than ours, and those of the United States not very much smaller, if at all," a

[80] *The Trade of the United States with China*, p. 78.
[81] *Commerce Reports*, November 14, 1927, p. 383.
[82] E. M. Gull, *Times Trade and Engineering Supplement*, October 26, 1929.

statement which is again at variance with the Department of Commerce investigation.

Still there can be no question, even allowing Great Britain a generous percentage of the Hong-kong traffic, that United States trade with China is in excess of British. It is more difficult to contrast United States trade with Japanese. A correct knowledge of the origin and destination of the trade now called Hong-kong trade would probably not improve the United States quota of Chinese trade as compared with the Japanese quota; Japan as well as the United States has a large share of this traffic. This is not the case with that portion of the United States trade which is now credited to Japan or Canada because it is shipped from Kobe or Vancouver. The separation of this would reduce the Japanese figure and increase that of the United States at one and the same time. It is therefore evident that the position of the United States is of greater significance to the foreign trade of China than has usually been surmised.

AMERICAN INVESTMENT IN THE FAR EAST

Japan as a Borrower.

Japan was one of the first countries to seek financial assistance in the United States; this was in 1905, when New York bought part of a sterling issue. Since then financial relations between Japan and the United States have been marked by definite stages corresponding to the development of the credit standing of corporate enterprise in Japan. First borrowing was restricted to the Government; then the municipalities entered the market, their offerings being guaranteed by the Government; and finally corporate enterprises, mainly electric light concerns, became important enough in the life of Japan to enable them to secure accommodation in New York without relying on the pledge of their Government. Signs are not wanting that Japan is also becoming an interest of the United States stockholder, through the medium of United States corporations and investment trusts, as well as of the United States bondholder. This form of direct investment is growing with the expansion of American business; it escapes statistical

computation,[83] although as much as $50 million must have been sunk in this manner in the industrial equities of Japan, mainly utility undertakings. That it is welcome was indicated by Kengo Mori, chief Japanese delegate to the Conference of Reparations Experts in 1929, in an address in New York on June 18, 1929.[84] Speaking of the progress so far made in the financial relations between Japan and the United States, he said that he would not be surprised if this progress were followed by the American investment public becoming partners in the enterprises themselves.

Altogether, out of a foreign debt of about $750 million, Japanese securities outstanding in the American market total $200 million, though an uncomputed amount must have been bought back by individual Japanese. Most of this sum is represented by the great earthquake loan of 1924, when a group headed by J. P. Morgan & Company issued $150 million 6½ per cent bonds, due in 1954, mainly for the purchase of materials necessary for reconstruction. In November, 1929, the same group also came to the assistance of Japan when it wished to return to the gold standard by establishing in New York a one-year credit of $50 million.

Of the entire Japanese debt two thirds has been employed for productive purposes and one third for military purposes, borrowed mainly in time of war.[85] American capital is thus advancing the buying power of Japan and helping it to import increasing quantities of special manufactures, the takings of which are always the first to suffer in time of depression.

Perhaps of major significance in the financial relations between Japan and the United States is the repeated attempt to attract United States capital for Japanese employment on the Asiatic mainland. At one time Japan hoped to effect the economic renovation of China with Japanese–United States money. Of vital need to the island kingdom is the building up of an exchange with China of manufactured goods for raw materials. Japan would like to rely much more on its Asiatic neighbor for essential raw materials than has hitherto been possible owing to lack of Chinese or-

[83] See, however, Odate, *Japan's Financial Relations with the United States;* Columbia University, New York, 1922.

[84] *New York Times,* June 19, 1929.

[85] *Financial and Economic Annual of Japan,* 1927, pp. 46–49.

ganization. While the World War was still in progress Japan felt that of all the belligerents only the United States and itself would for some years to come be in a position to offer the means and organization for developing Chinese resources. The opportunity seemed providential if the United States could be won over to an attitude at best of copartnership or at least of acquiescence in Japanese action. Japan's expressed hopes took different forms. In the post-war German vein in respect of Russia, Marquis Okuma once declared that what China needed was American money and Japanese brains.[86] With more suavity Viscount Kaneko found a place for American brains as well as money. "Only the joint efforts of America and Japan," he declared to a meeting of the American-Japan Society in Tokyo, "could exploit and develop the resources of China."[87] Several war-time missions, particularly the Shibusawa and Megata missions, came to the United States on a voyage of promotion. Little was said during the visit beyond generalizations of the desirability of coöperation (although Judge Gary of the United States Steel Corporation on several occasions disclosed his sympathy with the schemes as promulgated from Japan) but after the War the conversations widened under American auspices into four-power negotiations ending in the formation of the new China Consortium.[88] In recent times the course of events seems to indicate that Japan's war-time attitude has broadened into the realization that its economic hopes would be achieved as effectually by world concert in the task of vivifying the economic system of China.

But there remained the hope of attracting United States capital to Japanese enterprises in Manchuria. Inherited as the prize of the 1904 war with Russia, these had developed into a Japanese *imperium in imperio,* focused on the South Manchuria Railway, a semiofficial enterprise 51 per cent of which is owned by the Japanese Government. The lease of this vital link between the trans-Siberian railway and the ports of China and Japan had been extended under pressure from twenty-five to ninety-nine years by the Chinese Government as part of the privileges obtained under

[86] A. Morgan Young, *Japan in Recent Times,* p. 103.
[87] *New York Times,* October 5, 1917.
[88] See pp. 243 ff.

the Twenty-one Demands of 1915. Most of the other economic agencies of Japan in Manchuria have a connection with officialdom which it is reasonable to suppose goes beyond the peculiarly intimate relation maintained between the Japanese Government and ordinary Japanese business. Among them is the Oriental Development Company, which has invested about $30 million[89] in Manchuria and Mongolia, mainly in land development.

Enough has been suggested to account for the friction between the Chinese and Japanese administrations in Manchuria. To the United States the relation is mainly of interest in its bearings on the traditional policies of the open door and the maintenance of the territorial and administrative integrity of China.

For some time after the Japanese took it over the South Manchuria Railway borrowed in London, but "much to the disappointment of British interests expended the funds which they had obtained in London in placing orders for railway material in the United States."[90] Willard Straight thought that the Japanese were partly influenced by a desire to make amends in some way for the Japanese failure to fulfil an understanding to merge the S. M. R. in the round-the-world transportation scheme which was the dream project of E. H. Harriman. The South Manchuria Railway continued to borrow in London but did not stop its purchase of equipment from the United States, amounting to some $2 million a year. After the failure of the Japanese-American plan for China, the possibilities of a loan application by the South Manchuria Railway to New York bankers acquired circulation from reports in the Far Eastern newspapers,[91] but no steps seem to have been taken, and nothing further occurred until 1927, when conversations were reported in Japan and New York between the South Manchuria Railway and J. P. Morgan & Company, the head of a group of interested banks, with a view to floating a loan variously stated at $30 and $40 million. According to President Yamamoto of the South Manchuria Railway the money was required to refund bonded debt outstanding in Japan,

89 *Manchuria Daily News* (Dairen), January 3, 1930.

90 Louis Graves, *Asia,* June, 1923.

91 *Weekly Review of the Far East* (now *China Weekly Review*), September 24, 1921, for comment and reports from other papers.

to replace rails and rolling stock, and to carry out productive works in subsidiary concerns of the South Manchuria Railway. Since the conversations were the culmination of several years of planning, they attracted considerable attention in Japan, and eventually came to the notice of the Chinese, who denounced the project vigorously. The late Marshal Yang Yu-ting, chief of staff to the late Marshal Chang Tso-lin, declared that he considered the proposal

> a great provocation to the Chinese government and the Chinese people. They had enough Japanese material and influence in Manchuria already without the loan. . . . With American money the Japanese could build railways and exploit Manchuria so that a direct issue could be raised between the peoples of China and America.[92]

This statement, made in Peking to a gathering of journalists, was cabled all over the world, and brought the question of the loan to the forefront of discussion. It was followed by cables to the United States from other Chinese organizations registering opposition, which was taken up by vocal groups of friendly Americans.

Since 1922 the State Department has assumed the function of passing on all foreign loan applications,[93] and the conversations were therefore extended to Washington. Obviously the supervision of almost any foreign loan is embarrassing to the Department responsible for the handling of foreign relations. An awkward dilemma was involved in this particular case. Since the immigration controversy of 1924 the State Department had been anxious to smooth the ruffled feelings of Japan. At the same time it probably felt unable to ignore the outburst in China, especially Yang Yu-ting's attack, which was unprecedentedly blunt for a Chinese official. Moreover, the loan conversations took place at a time when Nationalist enthusiasm in China had communicated itself to many publicists and organizations in America.

Eventually the flurry disappeared from public discussion, but no statement has issued from Washington or the banking house or the South Manchuria Railway Company to account for the manner in which the negotiations died away. It would seem that the

[92] *North China Daily News* (Shanghai), November 30, 1927.
[93] See *Survey*, 1928, Section II, chap. iii.

State Department followed the good Bismarckian practice of asking the bankers to help it avoid facing the dilemma by not pressing for a decision. The South Manchuria Railway has, however, decided to welcome foreign investment in its properties. For this purpose it has divorced all the subsidiary properties which hitherto have been controlled by the South Manchuria Railway, floated separate companies, and released them to outside participation.[94] This is a development which is in line with the policy enunciated for Japan in general by Mr. Mori. A postscript to the affair was the flotation in 1928 in America of bonds having a par value of $19.9 million by the Oriental Development Company. This is the second time this company has entered the American money market, the first time being in 1923, when it raised $19.9 million, but since then it has announced that it has given up Manchuria as "a poor client."[95]

The Consortium.

A characteristic of the loan situation in China is that it has been dominated by international organization through consortiums of bankers enjoying specific support from their governments. No other country has been responsible for the creation of financial machinery of the magnitude of that which awaits China when it is in a position to use such aid. While the fact that international lending to China is a witness to the possibilities of investment in that country, the impulse to the Consortium idea must rather be sought in the sphere of diplomacy, for the Consortium represents an effort to solve both the difficulties created by international jealousies and the stress of financial competition in a country where investment has potentialities of large profits. Under the exigencies of existing treaty relations with China business relations may go even further. "It is . . . in a sense true," says MacMurray, "that the international status of the Chinese government is determined and conditioned by its business contracts with individual foreign firms or syndicates, scarcely if at all less than by its formal treaties with other governments."[96]

[94] *New York Times,* December 18, 1929.
[95] *Manchuria Daily News,* December 19, 1928.
[96] *Treaties, etc.,* Preface, p. xv.

American interest in consortiums dates from the Taft administration. On the express desire of the State Department, which required their services as the "indispensable instrumentality" needed by the United States Government to enable it "to carry out a practical and real application of the open door policy,"[97] an American group of bankers was formed to participate in the Hukuang Railway loan of 1911. The American share of this loan is still outstanding. Upon the advent of the Wilson administration a proposal to float what came to be called the Reorganization Loan of 1913 was approaching conclusion. As the name implies the proceeds were destined to reorganize administration under the new republican *régime;* at the same time the bankers felt it necessary to insure in the loan agreement some degree of control over the handling of the general revenues of the Chinese Government. This feature of the agreement was disliked by President Wilson. When the American group declared its willingness to seek a share in the proposed issue if requested to do so by the Government, the administration declined to make the request "because it did not approve the conditions of the loan or the implications of responsibility on its own part which it was plainly told would be involved in the request."[98] The statement, which was made direct from the White House, provoked the withdrawal of the American banking group from the loan negotiations. To Nationalist China the loan was regarded as "a staggering blow struck against Chinese democracy," for it was concluded without the sanction of the new republican parliament, and with the proceeds "Yuan [Shih-kai] began a campaign of assassination and bribery, followed by military operations against his political opponents. And thereafter he kept the country under the iron heel of militarism until his death."[99]

International lending to China lay in abeyance throughout the period of the World War. During this time a steady stream of Japanese money flowed through the empty coffers of the irresponsible Chinese administration in Peking into the capacious pockets

[97] *Cong. Record* (1909). How President Taft and Secretary Knox forced an entrance for American bankers is related in *For. Rel.,* 1909, pp. 144 and 178.

[98] *For. Rel.,* 1913, pp. 170–171.

[99] Quo Tai-chi, *North China Daily News,* July 14, 1921.

of its officials. A political flavor about these loans was as displeasing to the other Powers as the improvident spending of borrowed money was alarming to holders of Chinese government debt.

Into this situation the United States Government precipitated the suggestion among the Powers that new machinery might be created for future financing of China on a much broader basis of collaboration than the Japanese had anticipated. Only from Japan was there much hesitation; it was as chagrined at the prospect of giving up the reins it held over China as disappointed that its plans of Chinese renovation under Japanese-American auspices had become so transformed. Hesitation appeared also in the discussions for working out the new scheme. The starting point of negotiations that options upon which substantial progress had been made should be pooled did not conform with the Japanese wish to reserve from the scope of the Consortium the vast region of South Manchuria and Eastern Inner Mongolia. To protect interests in that region Japan asked for written guaranties. After much note-writing and submission of formulas the request was withdrawn, but in the Far East it was openly stated on circumstantial evidence that a "gentleman's agreement" had taken the place of a written one. Be this as it may, the negotiations, which started in July, 1918, concluded in the signature of the new China Consortium of October 15, 1920, by banking groups representative of the United States, Great Britain, France, and Japan, which have since been joined by Belgium. The new combination includes but does not dissolve the banking groups in the old combination. In addition the groups contain many more bank members; the American group, for example, embraces between thirty and forty banks, whereas the group in the old Consortium had only five.

The prime purpose of the Consortium,[100] declared the late Paul S. Reinsch,[101] United States Minister to Peking during the negotiations, was "to safeguard the unity of the Chinese Republic, to gather up the total energy of foreign financial effort for the sup-

[100] For documents see *The Consortium,* Carnegie Endowment for International Peace; other relevant documents are to be found in *Correspondence Respecting the New Financial Consortium in China,* Mis. No. 9. Cmd. 1214 (1921).

[101] *Chinese Social and Political Science Review,* Vol. VII (Peking, 1923).

port of a unified government in China, and to prevent a situation in which, on the contrary, the financial energies of each power might have been directed primarily to the development of its own interests within any certain region of China."[102] In its pristine form the open door had reference only to equal commercial treatment in spheres of influence. This policy was enlarged to include the preservation of China's territorial integrity, but this later element was not originally intended to be directed against the sphere system but to guard against the possibility after the Boxer uprising that as an entity China might disappear altogether. Prior to the signing of the Consortium there was ground for fear that both China's integrity and the open door to trade in spheres of influence were being encroached upon. Whether the Consortium has in fact ushered in an open door to financial operations in spheres will be known only when it undertakes an enterprise in South Manchuria or Yunnan province, which are spheres of influence of Japan and France respectively. A more succinct way than Reinsch's of summing up the prime function of the Consortium is that it served "to demonstrate that, though China might be in chaos and disunion, it was no longer possible for the powers to do as they pleased, even though they were united in benevolent intent."[103]

Of outstanding significance was the program of the Consortium in connection with productive loans. By assuming the responsibility for initiating the Consortium the United States Government wished to facilitate what the American banking group called "the full development of the large revenue resources from only a few of which China at present realizes a satisfying income." Without interfering with general enterprises in banking, industry, or commerce, it proposed to deal primarily with loans to or guaranteed by the Chinese Government or provincial governments which fulfilled not only major administrative needs but provided for comprehensive reconstruction. It thought particularly in terms of communications, the inadequacy and disorder of which is progressively clogging the political as well as economic circulatory system

[102] See pp. 37 ff. for discussion of American policy.
[103] Young, *op. cit.*, p. 193.

of China. How grievous is this need has already been demonstrated. In this respect the program of the new Consortium differed profoundly from that of the old Consortium, whose resolution of September 26, 1913, confined its activities to administrative loans, and caused much disquiet to Nationalist China.

On the Chinese side the writings of Dr. Sun Yat-sen afford an indication of the philosophy of Nationalist approach to international lending:

> In order to carry out this project successfully I suggest that three necessary steps must be taken: First, that the various Governments of the Capital-supplying Powers must agree to joint action and a unified policy to form an International Organization with their war work organizers, administrators, and experts of various lines to formulate plans and to standardize materials in order to prevent waste and to facilitate work. Second, the confidence of the Chinese people must be secured in order to gain their co-operation and enthusiastic support. If the above two steps are accomplished, then the third step is to open formal negotiations for the final contract of the project with the Chinese Government.[104]

The first step was accomplished by the Consortium. The second step failed of attainment. Opinion in China was definitely hostile to the Consortium, alleging that China was faced with a financial monopoly, fearing that political control would go hand in hand with the extension of loans, and rebelling at the prospect of granting controllable security, that desideratum in banking and investor eyes. To the generality of officials a Consortium existed to fill their rice bowls, as the Reorganization Loan had done, but though several administrations held conversations with the bankers, they were sensitive to public opinion, and shied off any discussions of security. Several opportunities were afforded by the Powers for China formally to recognize the Consortium, but they were ignored, and in 1923 the special agent of the American Group of the Consortium withdrew from Peking. To this day no operation has been undertaken, though the organization is still in being, and at a conference in London in 1927 agreed to remain in existence

[104] Sun Yat-sen, *The International Development of China,* Shanghai, p. iii.

in perpetuity, subject to a twelve months' notice of withdrawal by a member group. The last statement by a Consortium banker was made by Mr. T. W. Lamont at the 1929 annual conference of the International Chamber of Commerce at Amsterdam:

> China's own banking and investment resources are increasing, and as time goes on China herself may be able, I hope, to finance largely her own enterprises of public utility. There are, however, certain Chinese individuals from whom I have heard, persons who are perhaps not as sound and conservative as our friends here; and such individuals seem to think that with civil war largely ended and with a new government established, China would, even now, have no difficulty in obtaining from the American market such loans as she might require. On this point we must be realists, and the greatest lack of friendship that we could show to-day would be simply to speak pleasant words to the Chinese, to give them general assurance and yet to fail to make concrete mention of certain steps that are requisite in the situation. It is on this point that frequent inquiry has been made of me. And I am bound to reply that at the present moment all who are China's friends must realize that China's international credit is at low ebb and until careful measures for its re-establishment have been undertaken by the Chinese Government, no loans on any scale calculated to be helpful could be made in the markets of New York, and I will venture to add in those of Europe. A great part of the specific security set aside for such foreign indebtedness and for the service of such foreign loans has been sequestered, and is no longer being made available for the service of the loans. Until these conditions are remedied, there can be no question of further credits on a material scale for any purposes.[105]

In view of conditions in China it may be doubted whether the Consortium has hindered the flow of capital. If there has been any hindrance, this has been beneficial to China, by keeping opportunities for malversation away from evanescent governments. But hostility still prevails among the Chinese toward international schemes for non-productive loans and loans in connection with which China would have to deal with groups of nations; at least this was the report brought back from Amsterdam by Sir George

[105] International Chamber of Commerce, Mimeographed Report.

Macdonogh as a result of the discussions which the International Chamber of Commerce had had with the Chinese delegation.[106] To settle this difficulty (that is, when the time comes for operation) it has been suggested[107] that one of the secondary functions of the new Bank for International Settlements might be to sponsor the reconstruction of China. The coöperation of the League of Nations has also been mentioned.[108] But at this writing the portents seem remote of the emergence of a Chinese Witte to take pride in the size of the foreign debt he has incurred. Though by engaging in 1929 a financial commission headed by Dr. E. W. Kemmerer to study and report on Chinese finances, the government at Nanking has sought to demonstrate its anxiety to effect a house cleaning, the military turmoil serves to keep its performances a long way behind its genuine desires.

An interesting offshoot of Chinese hostility to the Consortium was the almost overnight appearance of a Chinese banking group. Though China is poor in terms of *per capita* wealth, its size, population, and resources insure a collective wealth of no mean proportions. This wealth has, however, never been accumulated in the modern western manner, for the service either of the state or the needs of agriculture. But as the 1894 war indemnity to Japan awoke the people to a sense of nationality, so did the Consortium awake the banks to collaborate in pooling their resources, not by way of response to the welcome to become a member group of the Consortium which appears in the Consortium contract, but to show the foreigners that the Chinese could finance themselves. Mobilized and made patriotic by the Consortium, thirty-two banks with resources estimated at $500 million insisted on themselves promoting works of benefit to China. Their first operation was the Six Million Railway Car Loan for 1921 for direct advance on behalf of the Government to foreign providers of rolling stock. The stipulation of the lenders was that the revenues designated to secure and repay this loan should come under their audit. Two

[106] London *Times*, November 16, 1929.

[107] Paul Einzig, *The Bank for International Settlements*, p. 4.

[108] Wu Ding-chang, *International Economic Cooperation in China;* Institute of Pacific Relations.

months later the Shanghai Mint Loan ($2,500,000) was negotiated, the agreement allowing of supervision as drastic as that contained in any foreign agreement. In a memorandum accompanying the contract the Chinese bankers outlined procedure to be adopted in standardizing the new dollar currency, a much needed reform. But the bankers soon realized the hopelessness of the task they had set themselves. Perhaps the realization was borne in on them the quicker by a default on the railway loan within a year through military sequestration of the secured revenues[109] at the source. At any rate, after the first exhibition of strength and independence, the group publicly recognized their disabilities and actually sought to be the intermediary between the Consortium and the Government by announcing that "the Chinese Banking community may avail themselves of the opportunity of acting in a mutual spirit with the new Banking Consortium on such occasions and in such matters as are considered proper and favorable."[110] The birth of the Chinese group was a sign of the times that the investment habit with its concomitant of capital concentration is rapidly taking the place of the old hoarding tradition which has so far prevented China from participating in large-scale financing.

Government Debt and Business Investments.

Holdings in the United States of China's foreign debt are comparatively insignificant. It is estimated that the total amount of secured foreign loans outstanding on January 1, 1929, upon which payments are being made was £104,350,000,[111] say $500 million, of which the American share was $24 million. In addition China has a long list of inadequately secured and unsecured debts in connection with which the facts, let alone the redemption, are the cause of much dispute between debtor and creditor.[112] Those which are partly served are considered inadequately secured, and

[109] *Peking and Tientsin Times,* February 25, 1922.

[110] W. W. Willoughby, *Foreign Rights and Interests in China,* II, 1046.

[111] *China Year Book,* 1929–30, p. 657.

[112] For list see *ibid.,* 1928, p. 561 ff. Discussion in *Chinese Economic Journal,* September, 1929; D. K. Lieu, *Foreign Investments in China,* Shanghai; Arthur G. Coons, *The Foreign Public Debt of China,* University of Pennsylvania Press.

those in default represent unsecured debt, but such is the confusion in China's finances that it is impossible to distinguish the two, and it is extremely difficult to hazard the total of the outstanding obligations, even when all kinds are lumped together.

For other reasons it is difficult to give a gold dollar equivalent of the indebtedness. Problems of conversion arise from the fact that foreign loans were contracted and are repayable in many different currencies. Again, China's is a silver currency and the violent fluctuations in the price of the white metal constantly raise or lower China's burdens in terms of gold. How incalculable is this factor may be gauged from the experience of the American and Foreign Power Company, which in 1929 bought the electric power and light property of the International Settlement in Shanghai. The purchase price of these properties was payable in Shanghai taels over a period of five years. At the date of purchase the Shanghai tael was equal to 62½ cents, at which rate the price of 81 million taels had a current dollar value of $50.625 million; but the first payment of nine million taels in December, 1929, required a gold outlay at the rate then prevailing which made the gold equivalent of the total price $32,028,750, or a saving to the buyer of no less than $18,596,250.[113] Until the amount is finally liquidated, of course, the cost in gold cannot be predicted.

Subject to these qualifications it may be stated that exclusive of the Japanese indemnity (for the Sino-Japanese War of 1894–95) and the Boxer Indemnities, China at the end of 1925, when the last official figures were compared, had a total debt, mostly unproductive, in the region of a billion dollars,[114] of which the American share is about $50 million or 5 per cent. International discussion on these debts, with the possibility of a consolidation arrangement resulting therefrom, awaits the clearing of the political skies.

Direct foreign private investments in enterprises in China are of much greater financial consequence than the government debt.

[113] *New York Times*, June 6, 1930.
[114] Details in D. K. Lieu, *op. cit.*, p. 37.

"It is not improbable," says Professor Remer, "that these direct foreign investments are twice as great as all other forms of foreign investments."[115] Conditions are legally propitious in China for this kind of investment because of the prevalence of the extraterritorial system, which not only enables *entrepreneurs* to operate establishments on Chinese soil under the laws of their own country but affords them continuous immunity from Chinese jurisdiction. Legally, therefore, business investments in China are on the same plane as business investments at home. Those enterprises represented by manufacturing plants have an advantage over their Chinese competitors in respect of freedom from Chinese taxation, but, in view of the uncertainty overhanging treaty relations and the attitude of the Chinese toward foreign factories, it is doubtful whether this advantage will long accrue to the foreigner.

In spite of these advantages American business investments are as insignificant to the total as the American share of the government debt. Exclusive of stock on hand, the total was estimated in 1922 at $30 million.[116] In comparison Japan's business investments have been computed at 1,809,154,000 yen, or about $900 million.[117] British investments are even larger than the Japanese. In 1927 they were estimated by the British Chamber of Commerce in Shanghai at £350 million or about $1,750 million,[118] which, excluding holdings of debt, would leave about $1,650 million for business investments.

The paucity of American investments in China is due to several reasons: first, to the recency of America's interest in business enterprise abroad; second, to the fact that though investment is the twin sister of diplomacy in China, the United States has been

[115] *American Investments in China,* Institute of Pacific Relations.

[116] Frederic E. Lee, *Currency, Banking, and Finance in China,* United States Department of Commerce, p. 123. Other private estimates give the total up to $100 million, inclusive of stock on hand.

[117] Masnoske Odagiri, *Japanese Investments in China,* p. 4.

[118] *British Chamber of Commerce Journal* (Shanghai), February 6, 1927. Under the direction of Professor C. F. Remer a detailed study of the international financial and economic relations of China is now in progress under a grant from the Social Science Research Council.

much less continuously zealous in maintaining the relation between the two; finally, until recent times the laws of the United States have not encouraged foreign enterprise on the part of its citizens. This last-named handicap was peculiarly hampering in China, where Americans labored under the necessity, because of the lack of federal legislation to meet the peculiar needs of trading in China, to incorporate their business either under state laws, with their varying and conflicting regulations, or under the British ordinances of Hong-kong. Moreover, American citizens abroad were liable to pay income tax just as if they resided at home, whereas the British companies, for example, were not called upon to pay income tax, nor were their shareholders so liable unless they received their dividends as residents of the United Kingdom. To provide a federal charter for American firms operating in China and to put them on a more even competitive basis with other concerns the China Trade Act of 1922 was passed, and amended in 1925. It was designed to encourage American investment in China, but by this time social disorder had set in, and until 1929 there could have been little or no improvement in the totality of American investment in China. In that year the aggregate received an accession through the acquisition by American interests of the plant of the Electricity Department of the Shanghai Municipal Council. The plant is now run by the Shanghai Power Company, in turn controlled by the Far East Power Corporation, a subsidiary of the American and Foreign Power Company, Inc., which, as an earnest of future intentions, announces that it will also be the holding company for "such other public utility systems in the Far East as may be acquired."[119] Negotiations are also under way to transfer the telephone system to an American syndicate.[120] With the acquisition of these properties the United States would have a considerable stake in the future of Shanghai.

The condition of China has been such as to prevent the new international economic position of the United States from showing its results in China. If foreign investments in China had grown since 1921, the American share would undoubtedly have grown,

[119] *New York Times*, April 13, 1930. [120] *Ibid.*, May 28, 1930.

and, as in trade, would have grown much more proportionately than the total.

To summarize, the position of American finance in China is roughly as follows:

China's Foreign Debt	$1,000,000,000
American Share of Total Foreign Debt	5%
American Business Investments in China	$ 70,000,000
Per Cent of British	4.2
Per Cent of Japanese	7.7

For comparison:

American Share of China's Foreign Trade in 1928	14.91%
American Share of China's Carrying Trade in 1928	2.69%

CHAPTER FIVE

THE PHILIPPINES IN PACIFIC RELATIONS

THE "problem of the Philippines" involves in the main questions between the United States and the inhabitants of the islands. They include the nature of the authority exercised by the United States and the share of Filipinos in the Government (the extent of so-called "Filipinization"), the desire of Filipinos for independence and the opposing desire of Americans who profit by retention of the islands, the labor difficulties created by the emigration of Filipinos to the Hawaiian Islands and to the west coast of the United States, trade and tariffs, and the reflex action on all such issues of the political activities in Congress of the beet-sugar producers of Wisconsin and Utah and of the American investors in Cuban sugar plantations. The international aspects of the problem only, that is to say, the actual or potential relations with other countries created by the possession of the islands by the United States, are part of American foreign relations, and only those aspects of the Philippine problem fall within the scheme of the *Survey*.[1]

The islands constituting the Philippine group number 7,083 and comprise 114,400 square miles of territory, 95 per cent of which is contained in the eleven largest islands.[2] Most are of volcanic origin, and over six thousand are less than one square mile in area. With a fertile soil, resulting in some places from volcanic ashes and scorial and in others from disintegrated limestone, an even, mild climate, and abundant rainfall, the Philippines have a rich agricultural future. As in the Caribbean countries, notably Haiti,[3] a scarcity of modern means of communi-

[1] For a discussion of the domestic problem the reader is referred to William Cameron Forbes, *The Philippine Islands* (1928); Arnold J. Toynbee, *Survey of International Relations,* 1926, pp. 405–438; Maximo Kalaw, *Case for the Philippines;* Nicholas Roosevelt, *The Philippines a Treasure and a Problem* and *The Restless Pacific;* D. R. Williams, *United States and the Philippines;* Foreign Policy Association *Information Service,* "Philippine Independence," April 30, 1930.

[2] These figures and the unnotated data regarding population are from the 1918 census.

[3] See *Survey,* 1929, pp. 153 ff.

cation and transportation, difficulties as to land titles, and lack of credit facilities have retarded agricultural development. The same alternative future faces the Philippines as the Caribbean countries: either rapid large-scale development or a progress too slow to keep "pace with the appetite for the material advantages of life which has been developed in the individual Filipino under American leadership."[4]

Fish and forests constitute the two great natural resources of the Philippines, 53.7 per cent of the total land area being in "commercial forest." This is about 90 per cent of the total area in forests and is for the most part public domain administered by the Bureau of Forestry. The third important natural resource is the amount of land suitable for first-class agriculture. Only 12½ per cent of the total area is under cultivation,[5] and of the available arable land less than 37 per cent is farmed. The wide range of latitude which the Philippine Islands cover, equal to that from the Gulf of Mexico to Canada, gives a large scope for the agricultural products which can be grown, but this very extent is a hindrance to progress; the islands are so scattered and inter-island communication so little developed that isolation makes any form of instruction difficult. After years of fruitless efforts, the Department of Commerce learned that the best way to help the native was to go to his small farm, demonstrate the use of modern machinery and teach him to grow more staple products. If irrigation projects were undertaken, for which there is sufficient water, not only would the quality of crops be improved but the growing season could be made continuous throughout the year.

The Filipinos desire that their land be cultivated and slowly developed in small fee holdings, not by corporations or by a landlord and tenant system, either of which would reduce the cultivators to a state of social dependence. Individual citizens of the Philippines or of the United States (or with the express authorization of the Philippine legislature, citizens of countries which

[4] *Annual Report, Chief of the Bureau of Insular Affairs,* 1929, p. 10.

[5] *The Philippine Islands,* A Commercial Survey, United States Department of Commerce (1927), p. 42.

grant to Filipinos the same rights to acquire land as to their own citizens) may purchase up to 144 hectares (355 acres) of public agricultural land; and United States or Philippine corporations, of which 61 per cent of the capital stock is owned by Americans or by Filipinos, may purchase up to 1,024 hectares (2,530 acres).[6]

As coöperation in some agricultural projects comes to be recognized as desirable it will probably be by "a large number of landowners, grouped about a central agency which finances and coördinates the central activities, rather than by large holdings in fee . . . by individuals or corporations."[7] The production of high-grade sugar being dependent upon efficient management and milling, large centrals are already being developed which greatly increase output.

Strategic Location.

The northernmost island is only sixty-five miles from Formosa, the southernmost Japanese possession. To the southwest Palawan and the Sulu archipelago carry a discontinuous land bridge to within twenty miles of the British part of North Borneo. Multitudinous Dutch islands "o'erlace the sea" to the south and southeast, stretching on toward the coast of Australia; and, over an arc of forty-five degrees, the mosquito swarms of the Japanese-mandated Pelew, Mariana, Caroline, and Marshall islands are scattered to the east along the sea path between the Philippine and Hawaiian islands. Thus in the apprehensions of the naval strategist the islands "threaten" their near neighbors and are "threatened" in turn. From the point of view of naval strategy alone, the Philippines might even be considered as a gate lying athwart the great seaway between India and the Pacific Ocean.

In their relation to the Asiatic mainland the Philippines are a series of links in the long chain of islands that shut in the Asiatic seas from frozen Kamchatka down to the Malay Peninsula

[6] Public Land Act, Act No. 2874, Section 23, of the Philippine Legislature approved November 29, 1919, as amended by Act No. 3219, Section 3, approved January 19, 1925; publications of the Bureau of Insular Affairs.

[7] *Annual Report, op. cit.,* pp. 10–11.

as a log boom shuts in a harbor, guarding the Pacific access of Russia and China; all the islands are Japanese save the Philippines, and these control the entrance to the South China Sea, constituting a geographic factor in aid of the open door policy in China.

The following table gives the distances from Manila to various foci of communication in the Pacific, in terms of mileage, steaming time in days, and probable flying time at the rate of one hundred miles per hour.[8] The last may be important in a future in which, as Nicholas Roosevelt points out,[9] the islands of the Pacific may be the stepping stones of aviation between the American and Asiatic continents.

Distances from Manila to	*Distance in miles*	*Steaming time in days*	*Flying time in hours*
Batavia, Java	1,795	11	17.9
Guam, Marianas	2,006	7	20.1
Hong-kong, China	727	2	7.3
Honolulu, Hawaii	5,607	20	56.1
Melbourne, Australia	5,214	20	52.1
Nagasaki, Japan	1,504	4	15.0
Pago Pago, Samoan Islands	5,188	27	51.9
Panama, Canal Zone	10,764	30	107.6
San Francisco, California	7,164	26	71.6
Seattle, Washington	6,923	23	69.2
Shanghai, China	1,338	6	13.4
Singapore, Straits Settlement	1,578	5	15.8
Wei-hai-wei, China	1,725	7	17.3
Yokohama, Japan	2,023	15	20.2

The Island People.

The estimated population in 1928[10] was 11,921,600, of which the majority are brown-skinned Malayans, a blend of the Mongoloid and Indonesian types. As the successive invasions of the Philippines covered several centuries the people exhibit marked differences in language, manners, customs, laws, and degrees of civilization. The effects of Hindu, Mohammedan, and Japanese contacts are more evident in the culture than in the stock. Of pure-blood Chinese there are some 45,000, and of Japanese about

[8] Distance in miles here indicates direct mileage. The steaming time is based on present steamship service which in several cases is by indirect route.

[9] *The Restless Pacific* (1928), *op. cit.*, p. 26.

[10] *Commerce Yearbook*, 1929, I, 691.

8,000. Of the non-Filipino races there are over 6,000 United States citizens, about 4,000 Spanish, and perhaps 3,000 "others." A substantial number of Chinese "mestizos," and of Spanish "mestizos," perhaps 8 per cent of the whole, are to be found, particularly among the wealthier and better educated classes.

About 55,000 of the prehistoric types remain, living only in Luzon, Mindoro, Visayas, Palawan, and Mindanao, on the forest-clad slopes and higher interiors to which they were driven by the Mohammedan invaders. Including the frizzle-haired, dark-skinned Negritos, the straight-haired Mongoloid type called "Proto-Malays," and a curly-headed type combining the characteristics of aboriginal Australian and Japanese Ainu called "Australoid-Ainus," they are classified as "pygmies" in the census of 1918. Their physique is poor, their vitality and intelligence low. In Mindanao about 116,000 Indonesians dwell. Tall, well-developed, and light-colored, they are physically superior to the rest of the islanders; many of them have warlike characteristics, though they are becoming more pacific.

Language.

Lack of homogeneity arises also from the inadequate land and water communications among the widely scattered groups and from the many different languages and dialects spoken. At least seven main languages, differing as much as do western European tongues, and no less than eighty-seven distinct Malay dialects are current. Spanish, which introduced the Roman alphabet and was once the language of general communication, of education and business, and is still used by most newspapers, is gradually being encroached on by English, which is taught in the public schools, is the language in which instruction is given in the University of the Philippines and with Spanish is used in the government offices, the legislature and the courts; after twenty-five years of American occupation the number of English-speaking natives has doubled. The literates in the population,[11] approximately 20 per cent in 1903, increased to over 49 per cent in 1918, but of those able to

[11] The census figures for literacy are based on literates of native Christian population of ten years or over, Census, 1918.

read and write the number who do much of either is extremely low. The Monroe Commission of 1925 reported 530,000 as the approximate number of pupils who had finished the primary grades of the public schools.

Religion.

The Philippines are the only community of Christianized Asiatics under the jurisdiction of a western power. According to the Wood-Forbes report of 1922 the population then comprised 25,568 Buddhists, 540,054 "pagans," 434,868 Mohammedans, and 9,350,240 Christians, including the Aglipayans. This church takes its name from Monsignor Gregorio Aglipay, a native bishop of the Catholic faith. While accepting the doctrines of the Church of Rome, Aglipay and his followers became estranged from the hierarchical organization. In consequence of the general native hostility to the friars, he was able to organize a sect on this basis, and by 1905 claimed four million converts. Handicapped by a lack of educated bishops and priests, by legal inability to take over the churches in which the Filipinos were accustomed to worship and the images (such as Santo Nino of Cebu, and the Virgin of Antipolo, which were the objects of popular veneration), and by the poverty of its members, the church declined and seemed on the way to extinction, but a revival of activity took place and in 1918 it numbered 1,417,448, constituting 13.7 per cent of the entire population.[12]

Early History.

Records of early Philippine history once existed in native character (syllabaries of Indian origin). Zeal for the Christian faith led the Spanish priests to destroy these native writings as works of the devil, as was likewise done in Mexico and Peru; so much is known from the boasts of the priests themselves. A similar damage to the world's knowledge of early China had the emperor Shih Huang Ti wrought in 213 B.C. when he caused the destruction of all books of Confucius on the ground that the slav-

[12] See Frank C. Laubach, *The People of the Philippines* (1925), chap. ix.

ish following of ancient customs and traditions prevented the progress of the empire. Fragments of early Philippine history are found in the records of Java and of the mainland countries.

The Indians were in the Malay archipelago before the Christian era, the Chinese in the third and fourth centuries, and the Arabs visited it not long after. A Buddhist Kingdom was established in Sumatra which extended into a considerable empire, but declined with the rise of the Javanese Brahman empire of Madjapahit; both included North Borneo, to which some of the Philippines were subject or paid tribute. The islands seem to have been governed by the Ming emperors of China in the fifteenth century, and for a hundred and twenty-five years northern Luzon was subject to Japan. There is evidence that from 1372 to 1752 some of the islands paid tribute to China. Marco Polo in 1260 tells of "Saracens" in the Malay archipelago, and these Arabs—voyagers, merchants, and religious teachers—expanded into the Sulu archipelago about 1300. There the Spaniards found them in the sixteenth century; Moors and Christians, who had been at each other's throats for eight hundred years in northern Africa and Spain, fought each other again as Moro and Conquistador in the Sulu sea.

In the fifteenth and sixteenth centuries—the era of discoveries by Portuguese and Spaniards (among whom an adventurer like Magellan, a Portuguese by birth, might be found in the employ of Spain)—the new world was by various agreements and by Demarcation bulls of Pope Alexander VI divided between Portugal and Spain. The Philippines fell within the Portuguese area; yet at that time so inexact were geographical knowledge and the calculation of longitude that these islands, named St. Lazarus by Magellan, were believed to be in the half of the world allotted to Spain; Spanish seamen explored and conquered them, renamed them after Prince Philip, began colonization and introduced a commerce with Mexico and South America which expanded with great rapidity.[13]

The Dutch too had contacts with the Philippines. Their first

[13] The union of the two kingdoms in 1581 averted the possibility of a struggle for possession.

expedition, in 1595, returned from the East in 1597 bringing a treaty with the Sultan of Bantam; another, which went to South America for trade and plunder, then on to the East touching at the Philippines, returned to Rotterdam in 1601 after circumnavigating the globe. In 1602 the Dutch East India Company was formed; it became bankrupt and was dissolved in 1798, and in the course of the Napoleonic wars, the control of Java passed to England for a time. During the Seven Years' War, 1756–63, the British took Manila by assault, setting free the Sultan of Sulu who was a prisoner there, overran south Luzon and the Visayas, incited rebellion in north Luzon, and by these operations impaired the prestige of Spanish military power, which continued nevertheless to hold the natives in check until dislodged by the Spanish-American War.

In the nineteenth century the European neighbors of the Spanish in the Pacific islands were the British, Dutch, Portuguese, French, and Germans. The British holdings in 1905 comprised about 53,400[14] square miles not counting New Hebrides over which Great Britain holds a joint protectorate with France. The Dutch colonies covered 733,000 square miles, the Portuguese 7,330 square miles, the French 10,000, outside of the New Hebrides,[15] and the German 96,000 square miles.[16] The superiority of the administration of many of these possessions over the colonial rule of the Philippines by Spain did much by contrast to provoke the hostility of the Filipinos to their Spanish masters.

The overthrow of the shameless Queen Isabella II in 1868 brought liberals into power for a short time and gave the Filipinos a taste of liberal government; the reaction produced by the return of the Spanish conservatives to power was therefore all the more obnoxious. The first aspiration of the Filipinos was only to receive the same treatment as that meted out to the provinces of Spain, but the Spanish administrators, mistakenly assuming that independence was the goal, engaged in repressive measures,

[14] This does not include Australia and New Zealand or their dependencies.

[15] The value of the trade of the French possessions is much greater than their area would be thought to produce.

[16] N. D. Harris, *Europe and the East* (1926), pp. 589–591.

suppressed meetings, persecuted popular leaders, and punished the innocent; at the same time, in order to profit by the friars' long experience and authority, the Spaniards took them into confidence and caused the islanders to begin to consider the friars as their real and harsh masters. The usual sequence of open protests, repressions, secret organizations and conspiracies, executions and a reign of terror, and finally open rebellion ensued. Before the American arrival at Manila, the Spanish had obtained a truce with the revolutionary leader, Aguinaldo, but it was only a lull in a continuous struggle, and immediately after the destruction of the Spanish fleet Aguinaldo crossed over from Hong-kong, landed at Cavite, and with the aid of the Filipino militia, which promptly rebelled against Spain, invested Manila on the land side.

Acquisition of the Philippines by the United States.

Although the opening of the Suez Canal in 1869, in conjunction with the establishment of steam communication in the Pacific, had brought the Philippines into the world of organized commerce, the United States Government had not thought out its policy for the Pacific area when the war with Spain brought these islands within its grasp. Commercial treaties had been signed with Hawaii, 1849, Samoa, 1878, and Tonga, 1878, by which American mail steamers were provided with ports of call. The United States had not concerned itself further with Far Eastern affairs, neither participating in the partition of China nor protesting against it.

But war forces the prompt taking of many decisions. The naval engagement of May 1 in Manila Bay began operations which ended with the capture of Manila on August 13. "By a morning's battle," said Dewey, "we had secured a base in the Far East at a juncture in international relations when the parcelling out of China among the European powers seemed imminent."[17] With Manila in hand as a base for naval operations and as a door into the China market, and mindful of the reports already

[17] *Autobiography of George Dewey* (1913), p. 250.

made from investigations as to the strategic, mineral, and commercial value of the Philippines, President McKinley's idea of America's place in the divine order enlarged:

> . . . the war has brought us new duties and responsibilities which we must meet and discharge as becomes a great nation on whose growth and career from the beginning the Ruler of Nations has plainly written the high command and pledge of civilization.[18]

In early June the Philippines, with the exception of a port and necessary appurtenances to be selected by the United States, were to remain with Spain. By the middle of the month the Filipino insurgency was thought to change the situation, and in July Hay noted that Great Britain preferred that the Philippine Islands be retained by the United States; if this were not done Great Britain would insist upon an option in case of sale. The Armistice Agreement of August 12, 1898, left the Philippine question open, and the American Peace Commissioners were divided; three were avowed expansionists and were for permanent acquisition, two were against it. The instructions to the delegation covered the point of trade: "incidental to our tenure in the Philippines is the commercial opportunity to which American statesmanship can not be indifferent";[19] this Senator Lodge thought required us to hold "possessions on both sides of the Pacific Ocean for the protection and furtherance of our trade interests."[20]

China seemed about to be dismembered, and the great Powers, alarmed though they were at the probable consequences, were impotent to stop the process. In Hong-kong Great Britain had a wedge to keep the door open for the open door policy. The United States lacked any such *pied à terre*, but in Manila it would have a point of vantage whence it could assert its influence on the policies of the Orient. Although first instructions to the American delegates at Paris were for the cession of Luzon only, the President later telegraphed for the cession of all the islands. To the last Germany did not give up hope of picking up some "compensation," and by a secret agreement induced Spain to sell its part of

[18] Alfred L. P. Dennis, *Adventures in American Diplomacy* (1928), p. 82.
[19] *For. Rel.*, 1898, p. 907.
[20] N. D. Harris, *op. cit.*, p. 603.

the Caroline group; Germany also obtained the consent of the United States to its acquisition of the Carolines, Pelews, and Marianas (except Guam) in return for its waiver of all claim to the Sulus.[21] The outcome was satisfactory to Japan. It had protested against United States annexation of Hawaii but in 1898,

> . . . the feeling now, as expressed in the public press, as also in other ways, seems to be quite universal in Japan that the United States should take, possess and govern the Islands in the interest of peace and commerce and to insure good government, with the moral support, at least, if not the active coöperation, of Japan and Great Britain. Any desire that the Japanese may have had for the possession of the Islands seems to have been now almost, if not wholly, lost.[22]

When the United States decided to force Spain to sell the Philippines, Japan accepted the new status without visible uneasiness. It remained only to liquidate the situation with the Filipino insurgents who, misunderstanding the purpose of the United States, had come to expect full independence of the islands under a native government. Two years of fighting ended with the capture of Aguinaldo, the deportation to Guam of the most irreconcilable leaders, and the payment of a cash bonus for each surrendered firearm. The Filipinos found themselves in the position of the astonished Greeks in Rhodes and the Dodecanese after the permanent occupation of those islands by Italians in the Italo-Turkish war of 1911. Another obstacle to American control was removed when with the aid of the Sultan of Turkey as Khalif of the Mohammedan world, the Moros under the Sultan of Sulu were induced to assent to United States rule.[23]

Over one island, Palmas, the claim of the United States was ended by arbitration. With an area of less than two square miles and only 750 people, Palmas has neither strategic nor economic value; it is one of a large number of insignificant islands, still little known, and so much difficulty was found in identifying

[21] *Die grosse Politik der europäischen Kabinette* (1871–1914), XV, 82, 95–97.
[22] United States Legation at Tokyo to the State Department, August 13, 1898.
[23] For reference see Dennis, *op. cit.*, pp. 98, 91.

some of them ". . . that the arbitrator resourcefully suggested that they might have disappeared in one of the earthquakes which frequently occur in those regions."[24] Palmas lies about forty-eight miles southeast of the nearest point of Mindanao. Beyond it, fifty-four miles away in the same direction, are islands known as Nanusa or Meangis belonging to the Netherlands. By the Treaty of Paris of 1898 Spain purported to transfer title to Palmas to the United States; its claim had been based on the theory of discovery by Spain and Portugal, on recognition by treaty, and on contiguity. Netherlands based its claim on the assertion of peaceful and continuous display of authority over the island, beginning with contracts of suzerainty between native chieftains in 1676 and the Dutch East India Company.

The arbitration was agreed upon pursuant to a clause in the general arbitration treaty existing between the parties (one of the so-called Root treaties), and the tribunal employed was the Hague Permanent Court of Arbitration pursuant to agreement that there should be a single arbitrator. M. Max Huber of Switzerland, then also President of the Permanent Court of International Justice, was chosen as arbitrator. His decision was to the general effect that according to the evidence the Netherlands had exercised sovereignty over the island between 1700 and 1906; though not numerous these acts were sufficient in number, were continuous, peaceful, and open, and were exhibited more intensively in the years immediately preceding 1898, and there was no evidence establishing any display of sovereignty over the island by Spain to counterbalance the manifestations of Dutch sovereignty.

On January 2, 1930, the United States and Great Britain signed a convention defining the boundary line between the Philippine Archipelago and North Borneo[25] and confirming in the United States the eight small Turtle islands with a population of two hundred; administration of these islands is to be con-

[24] Philip Jessup, "The Palmas Island Arbitration," *American Journal of International Law*, XX, No. IV, p. 736.

[25] *New York Times*, January 3, 1930.

tinued for a time by the British North Borneo Company. This convention will be submitted to the Senate.

The Significance of the New Acquisition.

The possession of the Philippines very soon influenced America's rôle in the Far East; its regiments in the islands enabled the United States to send an important contingent to Peking in the Boxer affair of 1900, and this sharing of responsibility in turn gave it a standing at the peace negotiations of that year to protest against the severe terms of the great Powers. This prestige made possible negotiations by President Roosevelt in 1905 for the settlement of the Russo-Japanese War.[26]

In acquiring the Philippines the United States crossed the dividing line between continental expansion and colonial enterprise. In its progress to the Pacific it was still engaged in occupying the land of its inheritance and its own citizens were still more than conquerors, they were pioneers and settlers. The Rubicon of imperialism was crossed when the United States carried its flag to a distant land inhabited by alien peoples, where its citizens must remain a dominant minority over the races of another and less advanced civilization. Here the United States must assume the rôle of a political missionary, and thus accept principles hitherto foreign to its spirit and development—the imperial rôle of the European nations, proclaiming its stewardship and its share of the "white man's burden" and justifying the tutelage of primitive races in the name of the higher civilization whose blessings and other concomitants it imposes upon them.

In reaching out to the Philippines, the United States went to Europe by way of the Far East. Asia and Europe are not less involved with each other now than when the union of Spain and Portugal in 1581 caused Holland to lose the Portuguese trade and the Dutch sailed to the East Indies to make good that loss; or when Great Britain became an ally of Japan in 1902 in order to check the movement of the Russian glacier toward southern Asia; or when Germany in 1904 encouraged Russia to embroil

[26] See pp. 43–44.

itself with Japan in Manchuria in order that France might lack Russian support in the first of the Moroccan crises.

The International Nexus of Economic Interest.

Dutch fears for the security of their East Indian possessions have become acute when European crises—1830, 1848, 1867 (Franco-Prussian dispute over Luxemburg), 1870, and 1914—shook the seamless web of international politics. With sporadic efforts toward military defense—e.g., some fortifying in 1899, and bills in the Netherlands Parliament in 1920, 1924, and 1925 for naval increases which failed of passage, of which the last aimed at the creation of a "neutrality fleet"—the Netherlands had come to the formulation of the following "principles of defense" which were communicated by the Government to the Indies Volksraad in 1927:

1. The maintenance of Netherlands authority in the Archipelago against disobedience and rebellion.
2. The execution of Holland's military duties, as a member of the League of Nations, towards other nations, which task—apart from coöperation in the carrying out of military sanctions of the League with all available means—is confined to the preservation of strict neutrality in conflicts between other Powers.

The basis of these principles was a conclusion of the home Parliament that "the work of Geneva renders undesirable a definite plan of defense extending over a great number of years."[27] This sense of international security created by the growth of League influence has a concrete reinforcement in the British interest, backed by Singapore and the British fleet. The iron and oil of Borneo, the Celebes, Sumatra, and Java combine with the British resources of men and material to the common advantage of both countries.

The bearing of Philippine trade on the international relations of the United States may be found in the direct benefit which the United States derives from it or in the vantage in the China trade

[27] Lieut. Gen. H. Bakker in the *Asiatic Review,* July, 1929; p. 431.

which possession of the Philippines may be thought to secure to the United States. The Philippines have already become the third largest market for United States products in the Orient, and as a potential source of crude rubber, raw silk, coffee, and sugar—which constitute one-half of United States foreign purchases—and of sisal and camphor, two articles following closely in importance, they may be considered of even greater value.

Although the United States was insisting on the open door policy in China, and had agreed in the Treaty of 1898 to give Spain equality of treatment in Philippine ports for ten years, the tariff which took effect November 15, 1901, offended against the spirit of the open door declarations. By the Act of 1909, passed as soon as the ten-year period had elapsed, and the Act of 1913 a tariff wall was erected against other countries; American goods enter the Philippines duty free. Thus from taking but 7 per cent of their imports from the United States in 1899, the Philippines took 40 per cent in 1910, and with some fluctuations have taken a steadily increasing proportion, reaching 63 per cent in 1929.[28] Japan comes next in Philippine imports with 8 per cent, and China, Great Britain, and Germany follow in order. Philippine articles which do not contain more than 20 per cent of foreign material, if shipped direct, enter the United States free. Three-fourths of Philippine exports (as compared with 26 per cent in 1899 and 42 per cent in 1910) come to the United States; sugar exports to the United States have increased from 26 per cent of the total value of sugar exported in 1899 to 96 per cent in 1928.[29] To the United States the islands send sugar in steadily increasing quantity, cocoanut oil, copra, tobacco, abaca or manila hemp, maguey or aloe gum, and embroideries, and to Japan hemp, lumber, and maguey. Hemp, once produced in quantity only in the Philippines, is now cultivated to some extent in the Dutch and British East Indies. Of total trade 69 per cent is with the United States against 16 per cent in 1899. Philippine trade with Great Britain decreased from 8 per cent in 1919 to 4.76 in 1928, and with

[28] Bureau of Foreign and Domestic Commerce, *Far Eastern Series,* No. 94, March 15, 1930.

[29] *Annual Report of the Insular Collector of Customs,* 1929.

Japan from 8 to 6.68 per cent. Philippine foreign trade in 1928 was as follows:[30]

Total import and export trade		$289,712,000
United States	$199,444,000	
France	4,268,000	
Germany	7,779,000	
Italy	1,867,000	
Netherlands	2,000,000	
Spain	6,020,000	
Switzerland	1,673,000	
United Kingdom	13,552,000	
British East Indies	4,174,000	
Netherland East Indies	3,344,000	
French East Indies	2,451,000	
China	10,064,000	
Hong-kong	1,697,000	
Japan	19,904,000	
Australia	3,061,000	
All other	8,414,000	

The hopes of southern senators, who in the debates over the treaty of 1898 and in the succeeding presidential campaign argued for retention of the Philippines to serve as a market for cotton, have been realized, the Philippines now constituting the second largest foreign market for United States cotton piece goods. Of the cotton and its manufactures which constitute 20 per cent of Philippine imports, 54 per cent comes from the United States. From the United States the Philippines receive also wheat flour, iron and steel manufactures, such as rails, tools, machinery and automobiles, and mineral oil; with a production of only 60,000 tons of coal a year the islands are obliged to import more than 500,000 tons for their railways and industries.

In 1928 United States vessels led in the value of merchandise carried to and from the Philippines, with 45.5 per cent, although Great Britain had 412 vessels entering the islands with a total tonnage of 1,493,001 against 232 American with a tonnage of 1,212,791; German ships were third in number and tonnage and fourth in value of goods, and Japanese were fourth in number and tonnage and third in value of goods. British ships carried 32 per cent in value of the total merchandise, Japanese, 6.96 per

[30] *Commerce Yearbook*, 1929, I, 697.

cent, and German, 4.9 per cent. In the carrying trade between the Pacific Coast of the United States and the Philippines the United States is supreme, but for Atlantic Coast ports of the United States British ships offer a keen competition.

The total bonded indebtedness of the Philippine Government as of June, 1930, amounted to $75,098,500. The balances in sinking funds as of November 30, 1929, amounted to $12,661,225; this balance has recently been reduced by the cancellation of $4,503,000 face value of Philippine government bonds formerly held in the sinking funds.[31]

The total investment of American firms in the Philippines is $276,511,000. Of the 101 American concerns doing business in the Philippines, 39 are in industry and manufacturing with an investment of $153,956,000. Of the 78 English firms, 71 are in commerce with an investment of $493,303,500; all of the 26 German and 11 Japanese firms have their investments in commerce, $87,243,000 and $65,552,500, respectively.[32] The railway, telephone, and electric companies are controlled and managed by American corporations. Chinese control most of the retail trade and are influential in the interisland and foreign commerce, about 30 per cent of the Chinese population being engaged in commerce. Nearly 65 per cent of the sales tax is collected annually from Chinese merchants.[33] The lumber concessions, twenty-year license agreements, are evenly divided between Chinese and Americans, five each, the one Filipino concession having been sold to a Chinese in 1928.[34]

The foreign trade of the neighbors of the Philippines may be considered for its bearing on the foreign trade of the Philippines. The tables of Netherland East Indies, British East Indies, and French Indo-China foreign trade for 1927 with the principal countries are as follows:[35]

31 War Department, Bureau of Insular Affairs, Communication, June 2, 1930.

32 R. W. Dunn, *American Foreign Investments* (1926), p. 166.

33 Ta Chen, *Chinese Migrations, with Special Reference to Labor Conditions* (Washington, D. C., 1923), p. 97.

34 *Annual Report of the Governor General of the Philippine Islands,* 1928, p. 176.

35 *Commerce Yearbook,* 1929, II (Foreign Countries), p. 470.

NETHERLAND EAST INDIES

	Imports	*Exports*
Total	$349,652,000	$651,777,000
United States	10.6%	13.3%
Netherlands	17.2%	17.4%
United Kingdom	12.1%	9.6%
Singapore	13.6%	22.0%

BRITISH MALAYA

	Imports	*Exports*
Total	$570,484,000	$599,003,000
United States	3.6%	43.7%
Netherland East Indies	35.9%	9.8%
United Kingdom	13.6%	14.9%

FRENCH INDO-CHINA[36]

	Imports	*Exports*
Total	$105,286,000	$116,868,000
United States	2.9%	1.1%
France	47.2%	20.3%
Japan	2.5%	9.9%

While the Dutch produce almost all the world's quinine and most of the camphor, it is obvious that the large exports from the British and Dutch East Indies represent rubber shipments from the best producing areas of the world to the United States which owns three-fourths of the world's automobiles and in 1928 consumed about 62 per cent of the world's output of rubber.[37] American imports of crude rubber in 1928 were (in thousands of dollars):[38]

British Malaya	138,012
United Kingdom	28,930
Ceylon	20,814
Other British East Indies	609
Netherland East Indies	49,042
Brazil	5,148
Continental Europe	1,379
All other countries	922
Total	244,856

The theory that each sovereign state should be completely self-contained and that international exchanges should be unnecessary

[36] *Commerce Yearbook*, 1929, II, 360, 435.
[37] *Ibid.*, I, 475.
[38] *Ibid.*, p. 470.

has led to a demand for the development of the Philippines as a rubber plantation to supply the United States market;[39] it is argued that the Filipinos themselves would benefit by the increased opportunity for employment as laborers. But this form of capitalistic development is not acceptable to the Filipinos; American large-scale producers have accordingly sought other areas where native policy is either more hospitable or less articulate and forceful.

[39] According to the Philippine Trade Commission at Washington, in 1928 the Philippines exported 314 tons of rubber valued at $200,000. Of this amount 175 tons came to the United States.

CHAPTER SIX

ISLANDS OF THE PACIFIC

THE sprinkled isles and glittering sea stretches of the Pacific are much more the property of the romancer than of the annalist, and copra, sandalwood, and mother-of-pearl seem not so much commodities in trade as the essential stuff of adventure. The region belongs to the story-tellers—Melville, Stevenson, and Conrad. Even the accredited history of the Pacific is a romance. Fernão de Magalhães, who named El Mar Pacifico and died obscurely in the Philippines; the discoverers, the Dons of stately names—Vasco de la Rocha, Alvaro de Saavedra, Ruy Lopez de Villalobos, Alvaro Mendaña de Neyra—fluttering Portuguese and Spanish pennons from their stately galleons; the sixteenth-century sea libertines, English and Dutch, Drake, Cavendish, and Van Noort, who harried the Spanish with the devil-may-careness of buccaneers; even Captain Cook of the eighteenth century who met Magellan's fate in the "Sandwich Islands"—all these are epical and invested with some heroic quality, not plain actors in history. In the same way the name of Pitcairn Island seems not so much that of a British possession in the south Pacific as a symbol of conditions in the eighteenth century and of the astonishing adventure of H.M.S. *Bounty;* while the penal settlement of New Caledonia, and the Solomon Islands, suggest not so much the historical events by which they became European colonies as the incidents which take place under diverse "civilizations"—the "civilized" jungle and the primitive—in which men prey on each other.

Imagination feeds upon the immensity of the sea, everywhere tilted upward to the delicate blur of the horizon; on the endless murmur of long rollers crisping on the white sand of low atolls, their foam tricking out the blue sea floor like the cirri floating over the infinite upper blue; on the black-green of the Philippines and the ravines that gash the peaks of New Guinea. A typhoon mingles sea and sky like a volcano of the air; squalls

100
120
140
160
180
60
40
20
0
BERING SEA
KAMCHATKA
OKHOTSK SEA
Saghalin I.
Aleutian Is (U.S.)
4200
Japan Sea
Yokohama
JAPAN Is
4750 (Summe
Shanghai
3445
5280 (Wint
Nansei Is (Jap.)
Hong-kong
Formosa (Jap.)
(U.S.) Wake I.
CHINA SEA
Luzon
Manila
Mariana Is (Jap. Mand.)
PHILIPPINE Is (U.S.)
Guam I. (U.S.)
(Jap. Mand.) Caroline Is.
Palawan I.
Mindanao
Yap I.
Marshall I. (Jap. Mand.)
Sulu Arch.
SUMATRA (Du.)
BORNEO (Br.-Du.)
Java (Du.)
NEW GUINEA (Du.) (Aust. Mand.) (Aust.)
Nauru I. (Br. Mand.)
No. Solomon Is (Aust. Mand.)
So. Solomon Is (Br.)
Howland I.
Baker I.
Gilbert-Ellice Is (Br.)
Swain I. (U.S.)
(Br.-Fr.) New Hebrides
(Br.) Suva
Fiji Is
Tonga Is
New Caledonia (Fr.)
AUSTRALIA
1521
Brisbane
1750
2225
1935
1150
1086
1636
Sidney
1270
Melbourne
Auckland
1520
NEW ZEALAND
Tasmania
1295
Wellington
Hobart
Chatham
HAWAIIAN ISLANDS (U.S.)
MILES
0 25 50 100
Kauai I.
Oahu I.
Pearl Harbor
Molokai I.
Maui I.
Hawaii I.
20°N
160°
155°
SAMOAN Is
170°W.
Savaii I.
Upolu I.
(New Zealand Mand.)
Manua Is (U.S.)
Tutuila I. (U.S.)
15°S.
0 25 50 100 MILES

160
140
120
100
80
HUDSON
BAY
60
Kodiak I
Vancouver
Victoria
40
San Francisco
2400
2100
GULF OF
MEXICO
Hawaiian Is (U.S.)
20
3570
Salina Cruz
Caribbean
Sea
Panama
Washington I.
Fanning I.
Christmas I.
3658
4755
(Ecuador)
Galapagos Is
0
Jarvis I.
(Fr.)
Marquesas Is
4500
Is (New Zeal. Mand & U.S.)
(Fr.)
Tuamotu
Archipelago
Tahiti
Cook Is
Society
Is (Fr.)
619
Rarotonga
20
Pitcairn I.
(Br.)
6500
Easter I.
Juan Fernandez
40
to Cape Horn
PACIFIC OCEAN
Principal steamship routes with distances in miles 4500
160
140
120
100
80

drop a shutter of night on the ocean with a rain so heavy that it beats upon the eyelids; a new volcanic islet bursts with tropical passion out of the sea floor, or a Krakatoa detonates into dust and is blown around the world.

In the picture are tawny Polynesians, erect and noble-looking, docile and friendly, and negroid Solomon Islanders, squat and fierce, among whom still exist customs surviving from head-hunting and cannibalism. There are missionaries, whalers, deserters, and mutineers, wasters and riffraff on the beach, and all the nameless savageries of "white" men holding the brown and the chocolate-colored at their mercy in those wide silences.

The area is, nevertheless, the setting of international relations shared by many states; discovery, occupation and conflicting claims, sparse colonization by white people, development and exploitation of natural resources, maneuvering for markets—the scene, in short, of the politico-economic problems created by the restless energy of man which, always a characteristic of "civilization," has become intensified and accelerated by the conditions of the mechanical and industrial era. An outline of the setting of these problems and of their historical background is therefore suitable material for the *Survey*.

Counting an atoll archipelago as a single group, the islands and separate groups charted opposite page 274 number about 2,650. They are mostly of coral formation or of volcanic origin; new volcanoes occasionally appear, and some are still active in Hawaii (Kilauea), Tonga, the New Hebrides, the Solomon Islands, and Bismarck Archipelago. The natives consist mainly of three race groups: the earlier, very dark or "black" Melanesians, of whom the Papuans are an example, woolly-haired, thick-lipped, negroid, called aboriginal; the later or migrant Polynesians, tall, well-proportioned folk with light-brown skins, regular, often handsome features, and responsive in temperament; and the dark, often stunted Micronesians, people of Malay stock modified by Polynesian crossings and late Papuan, Chinese, and Japanese migrations.

The following table indicates the tremendous decrease in native

population of the Pacific islands during the last fifty years and the small proportion of whites to Asiatics.[1]

POLYNESIA

Natives, 1870	690,000
Natives, 1920	200,000
Whites, 1920 (exclusive of New Zealand)	37,000
Asiatics, 1920	145,000

MELANESIA

Natives, 1870	3,060,000
Natives, 1920	1,020,000
Whites, 1920	28,000
Asiatics, 1920	66,000

MICRONESIA

Natives, 1870	273,000
Natives, 1920	91,000
Whites, 1920	360
Asiatics, 1920	13,000

The islands of the Pacific were at first regarded as important sources of raw materials, but with the exceptions of the Philippines and the Dutch East Indies are now esteemed as commercial assets of only moderate value. A higher strategic value is attributed to them in the commercial sense as providing an approach to the mainland and thus affording an opportunity for participation in the trade of eastern Asia, thought to present unlimited market possibilities.[2]

European Rivalry in the Pacific.

Since the arrival of Europeans these islands have had almost no history of their own; subject to European colonization, their destiny in many instances has followed political events in Europe itself: their territories have been transferred as a result of or as an offset to European transactions; the slave trade was ended because of agitation against it in Europe; their commercial development as sources of raw material and as markets has been measured by European demand, and such protection and blessings as they

[1] *Problems of the Pacific* (1927), p. 230. These figures are of course approximations, but there is no doubt as to the steady decrease of the native populations.

[2] See Isaiah Bowman, *The New World* (1928), pp. 55, 614.

have received have also depended upon the advance of enlightened sentiment in Europe.[3]

Benjamin Kidd's characterization of conditions is still valid.[4] Remarking that civilization has tended to spread outward away from the tropics and has been most marked in the temperate zones, he said:

> There never has been, and there never will be, within any time with which we are practically concerned, such a thing as good government, in the European sense, of the tropics by the natives of these regions.
>
> . . . . . .
>
> It will probably be made clear, and that at no distant date, that the last thing our civilization is likely to permanently tolerate is the wasting of the resources of the richest regions of the earth through the lack of the elementary qualities of social efficiency in the races possessing them. The right of those races to remain in possession will be recognized; but it will be no part of the future conditions of such recognition that they shall be allowed to prevent the utilization of the immense natural resources which they have in charge.
>
> . . . . . .
>
> The one underlying principle of success in any future relationship to the tropics is to keep those who administer the government which represents our civilization in direct and intimate contact with the standards of that civilization at its best; and to keep the acts of the government itself within the closest range of that influence, often irksome, sometimes even misleading, but always absolutely vital,—the continual scrutiny of the public mind at home.

These possessions present—but in no acute form because of the paucity of population and its extreme backwardness—characteristic relationships of white and non-white peoples: first, economic relations, the issue between the exploiters and the exploited; and second, the problem of nationality, or the issue between the cultured races and races most of which can be said to have a culture only in the primitive sense.[5]

[3] See Elizabeth Van Maanen-Helmer, *The Mandates System in Relation to Africa and the Pacific Area*, p. 16.

[4] *The Control of the Tropics* (1898), pp. 51, 57, 96.

[5] Alfred E. Zimmern, *The Third British Empire*, p. 81.

In 1493 Pope Alexander VI divided the undiscovered world between the faithful states, Spain and Portugal; Portugal was to have all east of an imaginary line, drawn from the North to the South Pole, at the distance of a hundred leagues west of the Azores and Cape Verde Islands, and Spain, which began its explorations westward across the Atlantic, was to have what lay to the west. Because of geographical ignorance and the inaccuracy of nautical instruments they fought for many years over the demarcation line in the Pacific, especially in reference to the Philippines and the rich spice islands east of Borneo, Spain ever retaining the Philippines, and Portugal the Moluccas and neighboring islands only to lose substantially all of them to the Dutch in the wars from 1600 to 1661.

The British in the Pacific.

For two hundred years following there was no active rivalry in the Pacific, the only industry was that of the whalers, and the only other "white" visitors were the missionaries—whose organized efforts began from London in 1796—traders, individual planters, and beach combers. Unfortunately many traders, beyond the control of their governments, took advantage of the natives; the planters also seized the lands of natives or impressed them into forced labor on the plantations. British feeling that some control was desirable became, in the nineteenth century as the result of French scientific exploration and government expansion, the conviction that the control should be that of the British Government; with greater and better-organized naval and financial resources the British occupied or annexed a large part of the available territories. Although Australia was discovered, mapped, and tentatively settled by the Dutch,[6] the British Government established a penal colony there in 1788 and in the nineteenth century asserted a claim to the whole area in order to forestall French occupation; it took the same action in 1840 as to New Zealand. The British settlers were in fact more aggressive than the Government, the Dominions more eager for British empire in the Pacific than Great Britain itself—the Australians to

[6] *Problems of the Pacific* (1927), p. 229.

annex the part of New Guinea not held by the Dutch, as they did in 1883, and to have Great Britain take the sovereignty over the Fiji Islands, and the New Zealanders to annex Samoa and Tonga and to federate with other islands. The British Government was embarrassed by such importunities; in Europe it had more important problems the handling of which might be disturbed by aggressiveness in the Pacific—difficulties with France over Egypt, for example, and anxieties over British relations with Germany,—colonizing required military support, brought no revenue, and increased the tax burdens of England; the policing of Tonga and the Fiji Islands, the suppression of the piracy of the British colonists of Queensland and Fiji who ravaged the neighboring islands for plantation laborers, would lay an uncompensated weight on the shoulders of the British taxpayer already irked by the expense of long and costly wars against the natives of New Zealand and South Africa. From the time of the establishment of the penal colony of New South Wales in 1788 "each step towards ordered settlement of British people in the Pacific, each later step towards free development and self-government, was stoutly opposed by the official classes."[7] Froude even thought it unreasonable to require England to challenge a great European Power "in the interest of countries which might leave her on the morrow." Four motives impelled action: first, a steady, continuous force, the characteristic British tendency to bring order out of chaos and to improve government; second, jealousy of French progress—this remained in suspense for a considerable period while France was recovering from its disastrous war of 1870; third, the slowly growing consciousness of German rivalry and eagerness for a place in the southern sun; fourth, and most compelling from the middle of the nineteenth century, was the demand of the British colonists of Australia and New Zealand for an extension of British dominion, whether of the home government or their own, by federation of British colonies and by annexation of the areas of large and small unoccupied south Pacific islands. This demand, beginning in the forties at the time of the creation of a French protectorate over Tahiti, became more pressing because of the activities of the Ger-

[7] Guy Scholefield, *The Pacific, Its Past and Future*, p. 274.

man trading house of Godeffroy and Sons and Germany's sudden change to an imperial colonizing policy; there ensued "the scramble of 1884," and the full adoption by the British Government of the colonial point of view.

New Guinea lies off the north coast of Australia, at the nearest point only one hundred miles distant. The second largest island in the world, it is divided into three political sections: Dutch New Guinea has an area of 160,692 square miles with a population estimated at 195,460, the Australian Territory of Papua includes 90,540 square miles with a population of about 87,786 people, and the Australian Mandated Territory of New Guinea contains 68,500 square miles with a population of about 237,179.[8] Scarcity of native laborers and the unwillingness of those who are at hand to work impede the economic progress of the island, parts of which are unexplored. It is known that gold exists in the Markham Valley of the mandated territory but the richness of the deposits has not been determined, coal has been discovered but very little mined, exploration for oil has been undertaken during the last ten years by the Australian and British governments, though the extent of the petroleum there is yet unknown. Of the several small harbors only one, Adolfhafen, would probably be adequate for large vessels.

The Dutch territory is undeveloped except for a part of the western and northern coasts; commerce and industry are practically unknown. In 1926 Papuan imports were valued at £470,774, and exports at £685,896, consisting chiefly of copper, rubber, and copra. The mandatory report for 1926–27 states that the mandated territory of New Guinea, which includes New Guinea mainland and the Bismarck Archipelago, exported goods valued at £1,079,855 and imported goods valued at £660,753.

Discovered by the Portuguese, the island was proclaimed successively a Spanish and British possession, but was first effectively occupied by the Dutch in 1828. They abandoned it in 1835 but later took over the western part from its western tip to approximately the 141st eastern meridian. In 1867 a company from Sydney attempted to raise funds for colonization of southern New

[8] *Statesman's Year-Book,* 1929.

Guinea, but received neither funds nor sanction from the British Government, which was unwilling to undertake any activity in the Pacific which might entail military expenditure. The discovery of gold fields in New Guinea in 1878 intensified the Australians' desires, already aggravated by the fear of a German occupation.

Bismarck was an opponent of German colonization; he had the consolidation of the German people and the German position in Europe to attend to and wanted no additional complications. But the activities of German traders, notably of Godeffroy and Sons, and the ensuing controversies over claims and trade, compelled him to yield to the demand that imperial Germany protect its people wherever they might go, and he was forced into a colonial policy which he had previously denounced. He managed to convey to Granville, Secretary of State for the Colonies, the impression that Germany had no ambitions that need make England or the south Pacific British uncomfortable and that the northern side of New Guinea might be a legitimate field for German colonizing enterprise. England, suffering from many European embarrassments, gave way to German claims in Fiji and, having "no desire to oppose the extension of German colonization in the islands of the South Seas which were unoccupied by any civilized power," agreed that British authority would embrace only that part of New Guinea "which especially interests the Australian colonies, without prejudice to any territorial questions beyond those limits."[9] Granville seems not fully to have advised his Prime Minister, as to German ambitions, and he certainly did not consult the Australians who were fearful of the German approach and wanted all non-Dutch New Guinea protected against annexation. The agreement made gave Germany about 92,000 square miles, of which 70,000 square miles were in northeast New Guinea, which became Kaiser Wilhelmsland, and the rest in islands which were called the Bismarck Archipelago. Great Britain secured 90,000 square miles in Papua or southeast New Guinea, about one-third of the island.

The Australians were resentful when they heard of the accom-

[9] *New Guinea and the Western Pacific,* p. 4. British Parliamentary Papers, C. 4273 (1885).

plished settlement and protested vigorously. Convinced by the actions of Germany in Tonga, Samoa, and Fiji that its protestations of disinterestedness were not to be taken seriously, in 1883 they passed what was called a British Monroe Doctrine for the adjacent territories. Unable to recover freedom of action *vis-à-vis* Germany, Great Britain nevertheless, under the colonial pressure, altered its policy, occupied the unappropriated districts of New Guinea, instructed its High Commissioner in 1886 that the sanctioning of the purchase of lands in the western Pacific had been decided upon, and by the Papua Act of 1905 placed the responsibility for the government on the Dominion of Australia. In 1895 the boundary between Dutch and British New Guinea was adjusted at The Hague.

The Solomon Islands, which lie to the east of New Guinea and contain about 14,800 square miles, are the least developed of the British Pacific possessions. The population, consisting of warlike Melanesian tribes, is the largest of the British Pacific islands. Discovered in 1567 by the Spanish, these islands were visited by French missionaries in the 1840's, and after the division with Germany the South Solomons were brought under British protectorate between 1893 and 1900, the volcanic islands of Santa Cruz being included in 1898. An exact division between North and South Solomons was made at the time of the 1899 Samoan settlement with Germany. The British islands, the South Solomons, are administered by a resident commissioner, and the ex-German islands, the North Solomons, are held by Australia under a mandate. The exports of the South Solomons for 1926–27, consisting chiefly of copra, were valued at £451,994.[10]

The Fijis, most valuable of the smaller British archipelagoes, contain over 7,000 square miles in 250 islands. Furnishing all kinds of tropical products, of which the most important are sugar, copra, fruit, and rice, their exports in 1927 amounted to £1,997,374;[11] their imports, amounting to £1,223,303, came mainly from Australia, and secondarily from the United Kingdom. With the island of Rotuma to the north, which was annexed

[10] *Colonial Report for British Solomon Islands,* 1927, p. 6.
[11] *Colonial Report for the Fiji Islands,* 1927, p. 20.

to the Fijis in 1881, the population includes 90,236 native Fijians and 69,463 Indians. In the Fijis Melanesian and Polynesian meet; the people are quick to learn English, improvements in agriculture, and the ways of white men.

Tasman, the Dutch navigator, discovered the Fiji Islands in 1643. Wesleyan missionaries went to them from Tonga in 1835. Cakobau, their King, offered to cede the islands to Great Britain in 1859, if Great Britain would pay some American claims; the chiefs ratified the offer but Great Britain declined it. Through the influence of Europeans who went there to grow cotton when cotton prices rose as a result of the American Civil War, a constitution was set up under King Cakobau with a parliamentary administration; but this was of short duration. As the natives still pressed for British protection, and Great Britain desired to stop the abuses of Polynesian labor traffic as well as to acquire a port of call between Panama and Australia, it accepted cession of the islands by the chiefs in 1874 and created them a separate crown colony. In 1914 a constitution was granted under which there is now a partly elective legislative council with a ministry of elected members.

The tiny islands of the Phoenix group, ten of them northeast of the Fiji Islands, have nothing of interest to commerce except guano. Great Britain annexed the whole equatorial group between 1889 and 1892. Eight of the islands were leased in 1914 to the Samoa Shipping and Trading Company for eighty-seven years.[12] Howland and Baker belong in the class of doubtful sovereignty.

The Tonga or Friendly Islands are almost due south of Samoa and just east of the 180th meridian. They comprise about 400 square miles of land; copra is their only considerable export. The inhabitants are Polynesians of a comparatively high level of civilization. Tasman discovered these also in 1643, and the Englishman, Wallis, was there in 1767. Wesleyan missionaries came there from London in 1826, and Catholic priests were admitted in 1843. The spreading of the new religion led to a series of wars by the pagans from 1837 until 1854 to oust the Christians; then a native, a Christian convert, forced his way to the top, made him-

[12] *The Dominions and Colonial Office List* (1928), p. 484.

self king under the title of King George Tubou I, and granted a constitution. Germany in 1879 secured a treaty which assured a coaling station, England followed suit by a treaty in the same year with a most-favored-nation clause, and the United States made a similar treaty in 1886. In the same year Tonga was made a neutral region by the Decree of Berlin, but in 1899, at the time of the settlement of the Samoan affair, Germany renounced its treaty rights of 1879, and in 1900 the British established a protectorate. Since 1905 the finances have been administered by a British agent and consul, and a number of New Zealanders have served in different departments, especially since 1914. The *Colonial Report of 1927* gives the imports as £157,783 and the exports as £235,391.

The Gilbert and Ellice colony are a scattered group of coral atolls consisting of about 16 of the Gilberts and 9 of the Ellices, together with Ocean, Fanning, Washington, and Christmas Islands. They lie north of Fiji and northwest of Samoa, comprising about 180 square miles and having a population of about 30,000. Ocean Island is the only one which rises as much as 15 feet above sea level. It has phosphates, and the group exports copra. In 1926–27 imports amounted to £103,453 and exports to £395,-728.[13] The Ellice islanders are an offshoot of the tawny Samoan stock. The original Gilbertese, a small, dark folk, were overcome by Samoans about the third century A.D., and the Gilbertese are now therefore a mixture. Hiram Bingham went out there from Boston as a missionary in 1856 and the natives are now nominally all Christians.

The British discovered these islands near the close of the eighteenth century, asserted a protectorate over them in 1892, and at the expressed desire of the natives annexed them in 1915. There is a resident commissioner for the colony who is responsible to the High Commissioner for the Western Pacific.

The adjacent atoll of Nauru, approximately twelve miles in circumference, contains rich phosphate deposits. Its exports in 1928 were £362,112, mostly phosphates, and its imports £240,-

[13] *Colonial Report for Gilbert and Ellice Islands*, 1926–27, p. 8.

229.[14] The population of Nauru in 1928 consisted of about 1,000 Chinese, 130 whites, and some 1,300 Naurans and Caroline islanders. The island was annexed by Germany in 1888; captured by the Australian Navy in 1914, it came under a mandate conferred upon His Britannic Majesty. By an agreement between Great Britain, Australia, and New Zealand in 1919 the first administrator was to be appointed for a term of five years by the Australian Government, and thereafter as the three governments should decide. In 1927, with the consent of Great Britain and New Zealand, a second administrator was appointed by the Australian Government for a period of five years.[15] The Australian and New Zealand governments also share with Great Britain in the administration and in the operation of the phosphate deposits, having bought out the concessionaire, the Pacific Phosphate Company, in 1920. The government monopoly of the output of phosphate has been criticized by the Permanent Mandates Commission of the League.

Pitcairn Island.

Last of all the British possessions to mention is Pitcairn Island, an island of two square miles hanging at the tip of the Polynesian pendant that slopes away into the emptiness of the southeast Pacific. This uninhabited, fertile, volcanic isle was chosen by the mutinous crew of H.M.S. *Bounty* in 1790 as the Eden in which to live out their days on earth on a diet of coconuts and breadfruit and under such a sun as England never knew. The lure of a laborless life, their captain conjectured, "joined to some female connections, have most probably been the principal cause of the whole transaction." "The women at Otaheite," he testifies, "are handsome, mild, and cheerful in their manners and conversation, possessed of great sensibility, and have sufficient delicacy to make them admired and beloved."

One old mutineer lived on until 1829, and three English joined the community after 1830. The half-breed islanders were virtu-

[14] *Report* to the Council of the League of Nations on the Administration of Nauru during 1928, p. 43.

[15] *Ibid.*, pp. 3, 57.

ous, orderly, and devout, and lived an idyllic island life.[16] By 1856 the inhabitants had become so numerous that some moved to Norfolk Island, from which two families returned to Pitcairn. In 1926, 853 persons dwelt on Norfolk Island. In 1898 administration of Pitcairn Island as a British colony was placed under the control of the High Commissioner for the Western Pacific.

The French in the Pacific.

The French explorers of the Pacific in the late eighteenth century were unfortunate; of their four early navigators, de Bougainville was the only one to return. In planting colonies they sought naval bases and sites for penal settlements, and were anxious to advance Catholic missions; they were less interested in promoting trade. Their holdings comprise over 8,500 square miles; their native wards are Polynesians who are rapidly dying off.

In the Society Island Archipelago and its dependent groups lying between the 10th and 20th south parallels and between the 145th and 155th west meridians and in the high volcanic Marquesas a little to the north they have the nearest good harbor to the Panama Canal. The most important products for export are copra and vanilla. Some of these islands, of which the principal is Tahiti, were named by Captain Cook in 1769, and in 1825 the queen regent asked for a British protectorate, an offer which Canning declined because of the remoteness of the island.

The island life, before its contacts with the civilization of the machine age, was described in the limpid prose of the eighteenth century:

> Two or three bread-fruit trees, which grow almost without any culture, and which flourish as long as he himself [the islander] can ex-

[16] The story of the mutiny and the subsequent history of the mutineers and of the colony are told by Sir John Barrow, *A Description of Pitcairn's Island and its Inhabitants with an authentic account of the Mutiny of the Ship Bounty and of the Subsequent Fortunes of the Mutineers* (New York, 1878).

The muse was stirred by their fate:

> "Young hearts which languished for some sunny isle,
> Where summer years, and summer women smile,
> Men without country, who, too long estranged,
> Had found no native home, or found it changed,
> And, half uncivilized, preferred the cave
> Of some soft savage to the uncertain wave."

pect to live, supply him with abundant food during three-fourths of the year. The cloth-trees and eddo-roots are cultivated with much less trouble than our cabbages and kitchen-herbs. The banana, the royal palm, the golden apple, all thrive with such luxuriance, and require so little trouble, that I may venture to call them spontaneous. Most of their days are therefore spent in a round of various enjoyments, where Nature has lavished many a pleasing landscape; where the temperature of the air is warm, but continually refreshed by a wholesome breeze from the sea; and where the sky is almost constantly serene. A kind of happy uniformity runs through the whole life of the Taheitans. They rise with the sun, and hasten to rivers and fountains to perform an ablution equally reviving and cleanly. They pass the morning at work, or walk about till the heat of the day increases, when they retreat to their dwellings, or repose under some tufted tree. There they amuse themselves with smoothing their hair, and anoint it with fragrant oils; or they blow the flute, and sing to it, or listen to the songs of the birds. At the hour of noon, or a little later, they go to dinner. After their meals they resume their domestic amusements, during which the flame of mutual affection spreads in every heart, and unites the rising generation with new and tender ties. The lively jest without any ill-nature, the artless tale, the jocund dance, and frugal supper bring on the evening, and another visit to the river concludes the actions of the day. Thus contented with their simple way of life, and placed in a delightful country, they are free from cares and happy in their ignorance.

Beginning in 1836, when the Tahitians refused to admit French priests, the government of Louis Philippe showed an interest in the island in order to gain popularity at home, demanded toleration for Catholicism, and presented an ultimatum for an apology, an indemnity, and a salute. France deprived the Tahitians of independence in successive stages: it obtained a protectorate in 1842; by the 1847 Declaration of London, the French and British agreed to the independence of the northwest part of the group known as the Leeward Islands; between 1880 and 1888, France finally obtained the agreement of the Tahitian ruler and of Great Britain to French sovereignty over the group, and a renunciation by Germany of all claims. The Marquesas Archipelago, northeast of Tahiti, which contains 480 square miles and

has a population of about 2,255, is a dependency of the Society Islands, as is also the Tuamotu Archipelago with an area of over 300 square miles and a population numbering 4,276.

New Caledonia, the largest of the French possessions, lies about 1,000 miles east of Australia and, with the Loyalty and Wallis and other small groups as dependencies, contains 7,235 square miles. The natives are of mixed Melanesian and Polynesian blood. The island was a convict colony until 1898; in 1916 only 2,680 out of a population of 50,000 were of convict origin. New Caledonia is one of the leading sources of the world's supply of nickel and of chromium; copra, cotton, coffee, phosphates, and guano also are exported. After French missionaries had been ten years in these islands Louis Napoleon annexed New Caledonia with the Loyalty Islands in 1853, to which was added Wallis Archipelago in 1887–88. A good many Japanese have gone there as laborers and both New Zealand and Australia profess to be worried at the migration.

The New Hebrides, where the French have a condominium with the British, complete the roster of French interests in the islands. Lying to the eastward of New Caledonia, the group consists of about eighty islands, many of them volcanic, and comprises about 6,000 square miles of the most fertile land in the Pacific. The natives are Melanesians with some mixture of Polynesian. For many years these islands were practically a "no man's land," a hunting ground for recruiting vessels. In 1878 France and England agreed to a neutrality "understanding" which was reaffirmed in 1883. Germany, in 1885, renounced some shadowy claims in favor of France. In 1887 an Anglo-French Convention agreed to the future protection of the New Hebrides under a joint commission of British and French naval officers. A new London Convention, in 1906, provided for a "region of joint influence"; British and French nationals were to have equal rights and each Power was to have jurisdiction over its own citizens, citizens of other Powers to be under either British or French jurisdiction. Each of the two Powers was to appoint a resident commissioner who should have executive jurisdiction in these islands, and a composite court was to contain one British judge, one French, and

a third of neither nationality to be appointed by the King of Spain; there should be neither fortifications nor penal settlements. This convention was submitted to and grudgingly approved by Australia and New Zealand before it was ratified by Great Britain. It has been superseded by a convention of 1914, ratified in 1922. The island trade in 1927 amounted to £398,028 in exports and £307,939 in imports, nearly all from France.[17]

Former Spanish and German Colonies.

Spain in the Pacific is but the shadow of a vanished empire. It once possessed the Philippines, the Mariana or Ladrone Islands to the northeast, the Caroline Archipelago south of the Marianas, and the Marshall Islands east of the Marianas, all discovered by the great Spanish explorers of the sixteenth century and penetrated at various times by Spanish missionaries. The Pelew and Caroline Islands Spain also had by award of Leo XIII in an arbitration with Germany in 1885. All are lost—the Philippines by treaty to the United States in 1898, all the other groups by sale to Germany in 1899 for 25,000,000 pesetas ($4–5,000,000) after the United States had destroyed Spanish naval power.

Germany, too, has disappeared. It came late into the Pacific and went soon.[18] The great Hamburg trading house of J. Caesar Godeffroy and Sons established a branch in Samoa in 1857[19] and soon had posts or agencies in the Fiji, Gilbert, Ellice, Tonga, Marshall, and Solomon Islands and in New Britain and the New Hebrides. This trade expansion created a desire in 1871 for a coaling station in Samoa. In the same year the suggestion that some of the Pacific colonies of defeated France be taken over was received with indifference by the German public and with hostility by the Government. The Godeffroy house became bankrupt in 1879 over Russian paper and Westphalian iron, but when Bismarck was forced into a "strong" colonial policy in 1884–85 Germany made itself mistress of a large section of New Guinea,

[17] *Colonial Report for the New Hebrides,* 1928.

[18] German interests in Samoa are discussed in the section of this chapter devoted to the United States interests in the Pacific, pp. 305–309.

[19] Date given in 1918 by the Interstate Commission of Australia. The German historian, Zimmermann, fixes it at 1865.

of the Bismarck Archipelago, and of the Marshall Islands. Pressing also into the Carolines, it tactfully withdrew through the form of a Papal arbitration which went in favor of Spain, Bismarck valuing the friendship of Spain more than the islands. All its holdings, including the Pelew, Caroline, Mariana, and Marshall Islands purchased from Spain in 1899, the North Solomons, added by agreement with Great Britain in 1899, and Western Samoa, obtained in the same year, were taken by the British, Australian, and Japanese navies and New Zealand expeditionary forces in 1914. The former German possessions south of the equator are, with the exception of Nauru, under mandate to Australia or New Zealand, and the island groups north of the equator to Japan.

Japanese Interests.

In the Caroline group, which in a general sense includes the Pelews, there are approximately 500 islands and islets; comprising about 550 square miles, they stretch out over 2,000 miles of the sea floor. The most important is the island of Yap, a cable station.[20] The natives, Micronesians with a mixture of Polynesian, Melanesian, and Malay, are diminishing under diseases contracted from the whites. They have been "Christianized" and "civilized," mainly by the American Board for Foreign Missions.

There are fifteen islands in the Mariana or Ladrone group, of which Guam, the largest, belongs to the United States. The people of the island are Chamorros—a delicate race like the Filipinos —stocky Caroline Islanders, Tagalogs from the Philippines, and a few Chinese. Japan has for a long time completely dominated the trade and carried it in Japanese ships.

In the Marshalls are thirty atoll islands; little is known about them, for one reason because they lie in the path of the most devastating typhoons. The inhabitants, of Micronesian stock, have a complicated native government, divided among chiefs, nobles, and commoners. In the case of all three groups—Caroline, Mariana, and Marshall Islands—a large part of the chief exports, copra and sugar, goes to Japan.

[20] See also pp. 311–312.

Islands of Uncertain Status.

The status of some Pacific islands, none of which has any commercial value although some may eventually be useful as resting places for airplane flights in some advanced stage of aeronautic development, is uncertain partly because of an act of Congress, approved August 18, 1856:

Section 5570. Whenever any citizen of the United States discovers a deposit of guano on any island, rock, or key, not within the lawful jurisdiction of any other government, and not occupied by the citizens of any other government, and takes peaceable possession thereof, and occupies the same, such island, rock, or key may, at the discretion of the President, be considered as appertaining to the United States.

Section 5578. Nothing in this Title contained shall be construed as obliging the United States to retain possession of the islands, rocks, or keys, after the guano shall have been removed from the same.

Prior to 1880, bonds were filed, in accordance with the provisions of the Act, for about seventy islands; but it is probable that several names and positions have, in some cases, been given for a single island.[21] The doubt as to sovereignty arises in part[22] also

[21] A list of guano islands as of December 22, 1885, may be found in John Bassett Moore's *Digest of International Law,* I, 567–580.

[22] In the administrative system of the United States no specific provision is made for authoritative definition of United States claims to territory. At the present time such claims may be asserted or waived by four or five different executive departments. Statements relating to territory, the sovereignty of which is in dispute, appear in publications of various departments; sometimes based upon available publications of the foreign government which has a conflicting claim, they disregard unpublished sources of information concerning United States claims; the same department may on another occasion enlist the help of the Department of State in making good the claim of the United States to the disputed island.

The Hydrographic Office of the Navy publishes charts, but in times past these charts have been at variance with the claims made by the Department of State, notably in the Las Palmas Island affair. The Department of the Interior issued a publication called *Boundaries, Areas, Geographic Centers and Altitudes of the United States,* United States Geological Survey Bulletin No. 689, by Edward M. Douglas. This is now in process of revision and will show some corrections, but the older edition did not completely sustain the positions taken by the Department of State.

Questions relating to the possessions of the United States as a whole, and to claims which are not admitted by other countries, as well as the definition of the territorial possessions of the United States, should lie, it would seem, exclusively

from the failure of any nation subsequent to the Guano Act to establish a satisfactory basis for a claim to sovereignty on grounds required by international law.[23]

British Admiralty publications state that Baker and Howland Islands, lying along the equator, are under British protection and that they are leased to the Pacific Islands Company. The guano has been exploited by both Americans and British, and in view of all the facts the title to these islands, as between the United States and Great Britain, may be regarded as uncertain. Christmas Island has been brought within the Gilbert-Ellice colony by an Order in Council of November 28, 1919, but the United States Government appears to hold the view that it has never relinquished such claims as it may have by virtue of the former occupancy of Christmas Island by American citizens.

Jarvis Island was formally annexed by H.M.S. *Cormorant* on June 3, 1889, and is named as British in official British publications, but a case might be made that the British have abandoned it. Washington Island, once bonded as a guano island, was formally annexed by Great Britain in 1889 and was included under the administration of the Gilbert-Ellice colony.

American Interests in the Pacific.

American whalers were in the Pacific before the American Revolution. By 1820 there were many American ships, whaling and trading in the Pacific, and as many as 2,000 American seamen a year at Honolulu, the favorite outfitting and repair harbor. During the first third of the nineteenth century American

within the jurisdiction of the Department of State, which alone should determine policy. Subject to that control, it would seem that information relating to any administered possession of the United States, such as Alaska, Hawaii, Porto Rico, Samoa, the Philippine Islands, or the Canal Zone, should be furnished by the department which is charged with its administration.

This anomaly is only one facet of the larger question of the consolidation of the administration of the various external or colonial possessions of the United States in a single department. (See *Survey*, 1929, pp. 312–313.)

[23] In the case of *Grafflin* v. *Nevassa Phosphate Company of New York*, 35 Fed. 474, the court, in construing the Act of 1856 relating to Guano Islands, said:

". . . The provisions of the law entirely negative any ideas that such islands were in any sense to become part of the territorial domain of the United States. It is clear that the United States extends its protection to the discoverer and his assigns solely to enable him to obtain the guano."

trading and whaling expeditions covered a considerable part of the Indian and Pacific oceans. Missionaries, too, began to work in the Pacific islands. Shipwrecks were numerous; mutinies of the motley crews were not uncommon; some of the traders acted on theories of equality and humanitarianism, but the treatment of natives by Americans and of Americans by natives left much to be desired. Altogether it became increasingly desirable that the United States Government should assume oversight, protective and restraining, of its nationals. This it was not unduly anxious to do; while some persons advocated the desirability of dispatching government expeditions to the Pacific for the purposes of discovery, exploration, and protection of American interests, opinion in the United States was either neutral or opposed. The conflicting points of view are made clear in the twelve years of debates in and outside Congress which preluded the Wilkes expedition. When the House received President Adams' recommendation of a bill to provide for the expedition, its Committee on Naval Affairs counseled delay:

> So far as this plan embraces what may be properly regarded as a *voyage of discovery*, the Committee can perceive nothing in the present condition of this country to recommend it to the favor of Congress. With immense unsettled and unexplored regions at home, they should consider it altogether superfluous to attempt the discovery of unknown lands, however rich they may be in resources, however inviting to the enterprize of individuals, or the ambition of rulers. . . . It appears to a portion of the Committee, therefore, that in the present condition of the United States, while the interior of our own country is yet unexplored—while the charts of our maritime frontiers are imperfect—while the islands, shoals, reefs, etc., along our own coasts have not been accurately surveyed and examined—while the northwest coast, and especially the mouth of the Columbia river, remain almost unknown—it is altogether premature on the part of the American government to enter upon the exploration of the Pacific Ocean and South Seas, or even to attempt to survey all the islands, etc., which may exist there.[24]

In 1836 Congress authorized the sending of the Wilkes expedi-

[24] *Senate Documents*, 20–22; 94, pp. 6–8; Committee Report, February 23, 1829.

tion. Under the command of Charles Wilkes, and carrying a considerable group of scientists, a squadron of six vessels sailed from Hampton Roads in August, 1838. Three and a half years later Wilkes returned by way of the Cape of Good Hope, having circumnavigated the globe and visited, explored, or charted many of the Pacific groups.

With native chiefs in Samoa and the Fijis he negotiated agreements for the protection of foreign ships, consuls, and nationals. To Wake Island Wilkes asserted the title of the United States in 1841, a claim not substantiated until 1899. From the time of this prologue to American interests in the Pacific, the participation of the United States in the affairs of that area has never ceased to be active.

Missionaries from Boston and other centers of the activities of conscience went out and Christianized many of the islands, often possessing the power of rulers. The interest of the United States before 1898 was mainly confined to the Aleutians, Hawaii, and Samoa. The Fijians, after their rejection by Great Britain, sought annexation to the United States but were refused by it also; the United States would not even accept Butaritari in the Gilberts on the King's petition. Secretary Frelinghuysen wrote in 1883 to the Hawaiian Minister:

> While we could not, therefore, view with complacency any movement tending to the extinction of the national life of the intimately connected commonwealths of the Northern Pacific, the attitude of this government toward the distant outlying groups of Polynesia is necessarily different.[25]

Admiral Mahan wrote of the earlier expansionists:

> Their vision reached not past Hawaii, which also, as touching the United States, they regarded from the point of view of defence rather than as a stepping stone to any farther influence in the world. So far as came under the observation of the writer—the expansionists themselves, up to the war with Spain, were dominated by the purely defensive ideas inherited from the earlier days of our natural existence. The Antilles, Cuba, the Isthmus, and Hawaii were up to

[25] *For. Rel.*, 1883, p. 575.

the time simply outposts—positions—where it was increasingly evident that influence might be established dangerous to the United States as she then was. Such influences must be forestalled; if not by immediate action, at least by a definite policy.[26]

The Aleutians, which protect the coast of Alaska, were acquired with the purchase of that territory from Russia in 1867. In the same year the United States appropriated the uninhabited Midway Islands, two small coral islands 1,200 miles northwest of Honolulu, in connection with Seward's proposed Korean expedition[27] and in "reaffirmation of the policy that the annexation of the Sandwich Islands was, under certain conditions, desirable."[28]

Hawaii.

Hawaii was the first of American interests in the Pacific, though annexation did not come until 1898, and the policy toward Honolulu has always epitomized American policy in the Pacific and even in the Far East. The Hawaiian Islands are 2,091 miles southwest from San Francisco. Johnston Island, some distance from the main Hawaiian group, was bonded as a guano island in 1859. Great Britain formally annexed it in 1892, but later withdrew the claim[29] and the island is now acknowledged in official British publications to be an American possession and American publications list it as one of the Hawaiian dependencies which were acquired in 1898. British publications are not agreed as to the status of Palmyra, a cluster of small, low islets about 1,100 miles south of Hawaii, which was bonded by the United States as a guano island in 1860. Although annexed by Great Britain in 1889, it was included by the United States as among the islands belonging to Hawaii in view of claims of annexation by the King of Hawaii in 1862.

While expanding through Oregon and California to the Pacific, planning transcontinental railroads and seeking a canal route across Central America, Americans were considering with interest certain incidents occurring in the Hawaiian Islands. The

[26] *The Problem of Asia* (1900), p. 7. [27] See p. 29.

[28] Tyler Dennett, "Seward's Far Eastern Policy," *American Historical Review*, October, 1922.

[29] *British Colonial Office List* (1917), p. 438.

first Americans to reach this archipelago arrived in 1789, five years after the appearance of the *Empress of China* at Canton. A generation later began the impact of American civilization upon the islands when, in 1820, fourteen missionaries arrived from Boston. In the following year an "Agent of the United States for commerce and seamen" was appointed to Honolulu; three years later a consul was established there. In 1826 Captain Thomas ap Catesby Jones negotiated the first treaty signed by the rulers of the archipelago; although this provided protection for Americans and their rights on the most-favored-nation basis, it failed of confirmation in the Senate. Treaties negotiated by the commanders of British and French warships in 1836 and 1839, respectively, were more fortunate in their outcome.

In 1842 the Secretary of State, Daniel Webster, declared it to be "the sense of the Government of the United States, that the Government of the Sandwich Islands ought to be respected; that no power ought either to take possession of the islands as a conquest or for the purpose of colonization, and that no power ought to seek for any undue control over the existing Government or any exclusive privileges or preferences with it in matters of commerce."[30] In a special message to Congress of the same year President Tyler stated that although five-sixths of all ships touching the islands were American, the United States sought "no peculiar advantages, no exclusive control over the Hawaiian Government, but [was] content with its independent existence. . . ." He added that his Government would feel justified, "should events hereafter arise to require it, in making a decided remonstrance against the adoption of an opposite policy by any other power."[31]

An opportunity for such a "remonstrance" presented itself in the following year when, under pressure, the Hawaiian king surrendered his sovereignty to a British naval officer,[32] at the same

[30] Moore, *op. cit.*, I, 475.

[31] J. D. Richardson, *A Compilation of the Messages and Papers of the Presidents, 1789–1908*, IV, 211–214.

[32] In his pleasure at the gift of a schooner by George IV, Kamehameha II offered in 1822 to place the islands under British protection. They had been offered to the British once before in 1794.

time appealing to Washington to use its influence on London. In correspondence with Edward Everett, the United States minister, in London, the acting Secretary of State remarked that "we might even feel justified, consistently with our principles, in interfering by force to prevent its falling into the hands of one of the great powers of Europe." The British Government made no attempt to follow up the opportunity offered by the King's action.

When, from the summer of 1849 to that of 1851, Rear Admiral Tromelin of the French Navy intervened for a time in Hawaii Secretary Webster reasserted the position taken by the United States in 1843:

> While the Government of the United States itself, faithful to its original assurance, scrupulously regards the independence of the Hawaiian Islands, it can never consent to see those islands taken possession of by either of the great commercial powers of Europe, nor can it consent that demands manifestly unjust and derogatory, and inconsistent with a bona fide independence, shall be enforced against that Government.

And he added that the United States naval armament in the Pacific would be kept requisite to the safety of the United States and Hawaii.

In March, 1851, at a time when relations between Hawaii and France were most strained, King Kamehameha III made preparations for placing his kingdom under the protection of the United States, either temporarily or permanently as developments might determine. Secretary Webster was not agreeable to this solution and the plan fell through. Two years later Secretary of State Marcy believed, as also apparently did England and France, that Hawaii must eventually come under the control of one of the Powers, and he felt that his Government was the one to undertake the burden. Accordingly, in April, 1854, the Secretary indicated to the United States Commissioner in Hawaii, David Gregg, his desire that the latter should arrange for annexation. Despite the protests of English and French officials, the Hawaiian king and the American Commissioner negotiated a treaty of annexation. Secretary Marcy failed to submit the document to the Senate,

considering the annuities to be paid to the Hawaiian rulers too high, and, more important, disapproving a provision in the treaty looking to the admission of the islands as a state in the American union.

In May, 1873, an American army officer, Major General Schofield, who was observing the defensive and commercial possibilities of the Hawaiian harbors, reported the apparent unreadiness of the islands for annexation but their willingness to give control of Pearl Harbor to the United States in exchange for a treaty of reciprocity. Americans were interested in the sugar industry, and in 1875 a treaty of reciprocity was signed; it contained a nonalienation clause and gave to the United States special rights not to be claimed by other nations under the most-favored-nation clause. Against these American privileges Great Britain protested for several years; when it attempted to negotiate a similar treaty with Hawaii, the United States successfully objected. As the growing weakness of the native Hawaiians and the great influx of Chinese immigration threatened to turn Hawaii toward Asia rather than toward the Occident, Secretary of State Blaine expressed the hope that the Hawaiian Government might encourage immigration of American homesteaders as an offset to the Asiatics. "The Hawaiian Islands," he declared in 1881,

> . . . cannot be joined to the Asiatic system. If they drift from their independent station it must be toward assimilation and identification with the American system to which they belong by the operation of natural laws and must belong by the operation of political necessity.[33]

Pearl Harbor, in which the United States Government had been interested since 1872, was leased in 1887 as a naval base when a second reciprocity treaty was ratified by the two governments.

The Hawaiian government understood that the cession was temporary, to endure only as long as the reciprocity treaty was maintained. The United States, however, interpreted it as a permanent

[33] Dennett, *op. cit.*, p. 611.

and absolute cession, though for many years thereafter it neglected to improve and to utilize the harbor.[34]

Contemporaneously Washington refused to join England and France in guaranteeing Hawaiian neutrality.[35]

In 1891 the King of Hawaii, Kalakaua, died in San Francisco. He was succeeded by his sister, Liliuokalani, whose reactionary and mistaken policies resulted in a bloodless revolution, fomented largely by American citizens, in January, 1893. When the Queen was forced to abdicate, a group of Americans left for Washington to negotiate a treaty of annexation with the Harrison administration. Charging that

> the monarchy had become effete and the queen's government so weak and inadequate as to be the prey of designing and unscrupulous persons,

President Harrison, in commending the treaty to the Senate, frankly remarked:

> Only two courses are now open; one, the establishment of a protectorate by the United States, and the other, annexation full and complete. I think the latter course, which has been adopted in the treaty, will be highly promotive of the best interests of the Hawaiian people, and is the only one that will adequately secure the interests of the United States. These interests are not wholly selfish. It is essential that none of the other great powers shall secure these islands. Such a possession would not consist with our safety and with the peace of the world.[36]

The consular and diplomatic officials of all the governments represented in Hawaii, with the important exceptions of France and England, had recognized the Provisional Government which was headed by the American, Sanford B. Dole. The British Minister and his co-nationals, and the officers of the warship *Garnet*, openly sided with the Queen and her party, who attempted also to obtain the support of the numerous Japanese in the islands. In

[34] W. F. Johnson, *America's Foreign Relations*, II, 163.

[35] Tyler Dennett comments: "Candor must compel one to admit that the American policy in the Hawaiian Islands was showing marked parallels to the existing and later policies of China and Japan in Korea." *Loc. cit.*

[36] *Journal of the Executive Proceedings of the Senate*, XXVIII, 397.

the face of these difficulties, and realizing that the dignity of the Senate and the political situation in the United States incidental to the approaching change of administration would forbid hasty action in the confirmation of an annexation treaty, the Provisional Government induced the United States Minister, John L. Stevens, to proclaim a protectorate over the islands subject to confirmation by Washington, and to raise the American flag over Hawaiian government buildings. This action Washington disavowed.

Annexation became a partisan issue in politics; President Cleveland withdrew the treaty from the Senate and sent a special commissioner to investigate the actions of the United States Minister and his co-nationals with reference to the revolution. As the report submitted was adverse to the Provisional Government, President Cleveland in his message to Congress in December, 1893, stated his belief that "the United States could not, under the circumstances disclosed, annex the islands without justly incurring the imputation of acquiring them by unjustifiable methods,"[37] and accordingly declined to return the treaty of annexation to the Senate. He and his Secretary of State, Walter Q. Gresham, then did what they could, without calling upon Congress, to bring to an end the existence of the Provisional Government. Despite the difficulties with which it was faced, the latter, supported by the people generally, took steps toward making itself permanent. In January, 1895, the Queen's attempt to overthrow the republic failed, and she renounced her claim.

In the presidential campaign of 1896 Hawaiian annexation was an issue. Shortly after his inauguration President McKinley submitted to the Senate a second annexation treaty. There the question was kept in the field of party politics; as only a majority were in favor, it hung fire until after the outbreak of the Spanish-American War. By opening their ports to American ships, the Hawaiians to all intents and purposes became the allies of the United States. The necessary two-thirds Senate majority still being unobtainable, recourse was had to annexation by joint Congressional resolution. Owing to a Senate filibuster two months

[37] Johnson, *op. cit.*, II, 174.

went by before the resolution had passed both houses, May 4 to July 6, 1898. In April, 1900, Congress authorized the creation of the Territory of Hawaii.

While the annexation treaty was in the Senate protests against the absorption of the islands were received from Great Britain and Japan, the former on the ground, not seriously pressed, that its carrying trade between the islands and continental United States would cease; in fact by far the greater part of the trade was already carried in American ships and an insignificant part only in British.

The Japanese protest was based on the twofold problem of immigration and maintenance of the *status quo* in the Pacific. During the last decade of the nineteenth century Japanese immigration became somewhat disturbing to the United States Government. In the American-Japanese Treaty of 1894 was incorporated a blanket proviso to safeguard the United States against labor immigration from Japan. To this Japan gave unwilling assent. Of the approximately 90,000 inhabitants of the Hawaiian Islands in 1890, 7½ per cent were Japanese; eight years later their numbers had doubled. For these Japan demanded of the new republic of Hawaii in 1893 rights equal to those of the natives, and four years later required continued free immigration. On several occasions Japanese war vessels appeared at Honolulu. Should unrestricted Japanese immigration continue, and should the immigrants be granted citizenship privileges, governmental authority might easily fall to them, and the United States might lose control of Pearl Harbor. The Japanese factor was not without influence in bringing about annexation in 1898. On the Japanese side, the desire for continued American friendship and general diplomatic support, more particularly with reference to Korea, led Japan not to maintain an irreconcilable attitude. Its claims on the Hawaiian Government on behalf of its subjects in the islands were settled and the immigration issue remained dormant for a period. Application to the Hawaiian, and later the Philippine Islands, of the immigration laws enforced in the United States proper brought renewed protests from Japan.

Hawaiian Products.

Sugar is the largest Hawaiian product. The output for the years 1923–28 was as follows:[38]

	Tons
Crop Year ending September 30, 1923	545,606
Crop Year ending September 30, 1924	701,433
Crop Year ending September 30, 1925	776,072
Crop Year ending September 30, 1926	787,246
Crop Year ending September 30, 1927	811,333
Crop Year ending September 30, 1928	897,396

The acreage in this time increased only from 115,000 to 130,968 and the tonnage gain was mainly due to phenomenally favorable weather conditions. Of pineapples, the second largest product, the pack exported during 1928 amounted to $40,871,581; the coffee export was valued at $1,368,826.[39] The plantation laborers are largely Filipinos, with Japanese in second place, and a small number of Portuguese, Americans, Chinese, Porto Ricans, and Koreans. There is a constant movement of laborers between the Philippines and Hawaii.

The trade in 1928 was as follows:[40]

Countries	*Imports*	*Exports*
Australia	$ 312,821	$ 21,811
British Oceania	333	7,259
British India	1,525,097	1,991
Canada	30,132	511,939
Chile	1,924,045	.....
France	18,978	811
Germany	672,377	95,392
Hong-kong	553,485	122,509
Japan	3,278,782	186,246
New Zealand	643,282	35,946
Philippines	527,695	690,225
United Kingdom	145,272	559,276
Other	728,911	290,340
Total Foreign	$10,361,210	$ 2,523,745
United States	$77,823,643	$116,956,090
Grand total	$88,184,853	$119,479,835

The pure-blooded Hawaiians, rapidly disappearing,[41] are

[38] *Annual Report of the Governor of Hawaii*, June, 1929, p. 3.
[39] *Ibid.*, p. 6. [40] *Ibid.*, p. 41.
[41] The Hawaiians intermarry freely with Chinese, Japanese, and Filipinos, and the various crosses seem to exhibit a resistance to the diseases brought by western races which pure-blooded Hawaiians have never shown.

brown Polynesians, with attractive features and black hair; erect and vigorous, they are good sailors and skilled in animal and plant lore. The racial composition of Hawaii is shown in the following table:[42]

1920[43]

Racial Ancestry	*American citizens*	*Aliens*	*Total*
American, British, German, Russian	17,853	2,166	20,019
Hawaiian	23,723	....	23,723
Asiatic-Hawaiian	6,955	....	6,955
Caucasian-Hawaiian	11,072	....	11,072
Portuguese	22,346	4,656	27,002
Porto Rican	5,602	....	5,602
Spanish	1,145	1,285	2,430
Japanese	49,016	60,258	109,274
Chinese	12,728	10,779	23,507
Filipino	....[44]	21,031	21,031
Korean	1,518	3,432	4,950
All others	248	99	347
Total	152,206	103,706	255,912

1925

Racial Ancestry	*American citizens*	*Aliens*	*Total*
American, British, German, Russian	18,426	360	18,786
Hawaiian	21,145	....	21,145
Asiatic-Hawaiian	8,345	....	8,345
Caucasian-Hawaiian	13,837	....	13,837
Portuguese	23,918	3,552	27,470
Porto Rican	6,382	....	6,382
Spanish	1,147	799	1,946
Japanese	70,860	57,208	128,068
Chinese	13,075	11,776	24,851
Filipino	4,800	44,535	49,335
Korean	2,916	3,040	5,956
All others	220	210	430
Total	185,071	121,480	306,551

[42] *Annual Report of the Governor of Hawaii*, June, 1929, p. 46.

[43] 1920, Bureau of Census compilation; Board of Health first compiled citizenship figures in 1924.

[44] Owe allegiance to the United States.

Racial Ancestry	1929 American citizens	Aliens	Total
American, British, German, Russian	37,165	841	38,006
Hawaiian	20,479	....	20,479
Asiatic-Hawaiian	10,598	....	10,598
Caucasian-Hawaiian	16,687	....	16,687
Portuguese	26,933	2,784	29,717
Porto Rican	6,923	....	6,923
Spanish	1,217	634	1,851
Japanese	87,748	49,659	137,407
Chinese	15,625	9,586	25,211
Filipino	9,176	54,693	63,869
Korean	3,643	2,750	6,393
All others	383	125	508
Total	236,414	121,157	357,571

Guam, Wake, and Samoa.

Guam, one of the Marianas, after its capture in the Spanish-American War by the *Charleston*, was taken over by the United States from Spain along with the Philippines,[45] because of its excellent harbor and its importance as a cable station which connects with Honolulu, Tokyo, and Manila and as a naval station *en route* from Honolulu, 3,843 miles, to Manila which is 1,500 miles beyond. It has a population of 16,000 persons of Indonesian stock, whom 24 American and 132 native teachers are trying to educate in English. In the year ending November 15, 1928, the United States Government appropriated $12,000 for education in Guam and $18,000 for the care of the sick and the maintenance of lepers. For the year ending June, 1929, the imports were $673,758 and the exports $247,666.[46]

The Wake Islands, uninhabited islands about 2,000 miles west

[45] That the United States was interested in other islands in this region is indicated by the following communication: Hay to Frye at the Paris Peace Conference of 1898: "You are therefore instructed to insist upon the cession of the whole of the Philippines, and if necessary, pay to Spain $10,000,000 to $20,000,000, and if you can get cession of a naval and telegraph station in the Carolines, you can offer more."

[46] *Report of the Governor of Guam*, 1929, p. 18.

of Hawaii, were taken by the Navy Department on January 17, 1899, and are United States possessions.

Swain's Island, occupied since 1856 by an American family engaged in raising coconuts, has been recognized by Great Britain as an American possession; the assumption of sovereignty over it by a joint resolution of Congress approved March 4, 1925,[47] made the island a part of American Samoa and placed it under the same administration.

There are fourteen islands in the Samoan group with a total area of about 1,700 square miles; only three have an area of over 200 square miles; all are mountainous. There is a good rainfall and the volcanic soil is productive, although severe gales and occasional hurricanes sometimes occasion great damage to crops. Copra and cocoa are the chief exports. The islands were explored by de Bougainville in 1768 and missionaries went there in 1830.

The natives are Polynesians, light reddish-brown or copper-colored, well-formed and erect, with strong features, high foreheads, and soft black hair—a handsome race.[48] Robert Louis Stevenson described them as "a gentle race, gentler than any in Europe." The white men, as usual, brought diseases to the islands, and in 1830 during an epidemic of influenza part of an evening prayer of the principal family to its god was: "Drive away from us the sailing gods lest they come and cause disease and death."

The interest of the United States in the Samoan Islands became lively in the third quarter of the nineteenth century on account of their strategic location in the south Pacific at a crossroads in the Panama, California, Hawaii, New Zealand, and Australia trade routes. In both Hawaii and Samoa there was a triangular interest on the part of foreign nations; in the former, as mentioned earlier, it was on the part of England, France, and the United States; in the latter Germany took the place of France. By the middle of the nineteenth century these three nations had their commercial agents at Apia in Samoa; in trade and commerce the Godeffroy house took the lead. In 1872 Commander R. W. Meade of the U.S. SS. *Narragansett* signed a treaty with a

[47] 43 Statutes, 1357.

[48] *General Report* by the Governor of American Samoa (1927), p. 5.

chief on the island of Tutuila for the exclusive control of Pago Pago Harbor, perhaps the finest in the Pacific; in exchange the local chief was to receive the "friendship and protection" of the United States. The treaty failed of confirmation by the Senate. In the following year President Grant sent a German-American, Col. A. B. Steinberger, as United States commissioner to investigate and report. As a result of his mission a request was sent to the United States Government that the islands be given its protection. This the Government was not ready to extend. Steinberger was allowed, at his own wish and expense, to return to the islands as commissioner. Arriving in 1875 for the second time, Steinberger intervened in domestic political situations and gave the rulers to understand that the islands had been placed under American protection. His actions and pretensions were investigated and disavowed in 1876; he was shortly afterward deported, but not before he had succeeded in bringing about a civil war which resulted in the appearance at Apia of a British war vessel. To prevent possible annexation by Great Britain the American consular representative acted for a time in conjunction with the Germans; upon two occasions, 1877 and 1878, he proclaimed an American protectorate over Samoa. Both proclamations were disavowed by Washington which found it easier to hope for a "stable, independent government" than to assume responsibility for a protectorate. In the latter year, nevertheless, still desirous of Pago Pago, the United States signed a treaty in which it agreed to use its good offices in the mediation of difficulties which Samoa might have with European nations, and obtained permission to establish a coaling station at Pago Pago.[49] Naturally Great Britain and Germany made similar agreements in the following year for harbors and coaling stations.

During the next twenty years a threefold triangular struggle went on in Samoa: plotting and counter-plotting by Samoans among themselves and with the foreigners, complicated by the intrigues and civil wars of King Malietoa Laupepa (and after his death in 1898 his son, Tanu), Vice-King Tamasese, and aspirant-to-the-throne, Mataafa; trade rivalry continued among the

[49] *Senate Executive Document*, 2, 46–1, 1879.

Americans, English, and Germans; diplomatic struggles verging on warfare went on among their governments and governmental representatives. The chiefs more than once offered the islands to Great Britain. The "unwarranted interference" of the Hawaiian Government irritated the Germans; "so might a fly irritate Caesar," wrote Stevenson. On March 16, 1889, apparently only the breaking of a hurricane over the harbor of Apia, where three American, one British, and three German warships were lying, stripped for action, prevented a naval battle.

> Seas that might have awakened surprise and terror in the midst of the Atlantic [writes Stevenson] ranged bodily and (it seemed to observers) almost without diminution into the belly of that flask-shaped harbour; and the warships were alternately buried from view in the trough, or seen standing on end against the breast of billows. . . . Thus, in what seemed the very article of war, and within the duration of a single day, the sword-arm of each of the two angry powers was broken; their formidable ships reduced to junk; their disciplined hundreds to a horde of castaways. . . . Both paused aghast; both had time to recognize that not the whole Samoan Archipelago was worth the loss in men and costly ships already suffered. The so-called hurricane of March 16th made this a marking epoch in world history; directly, and at once, it brought about the Congress and treaty at Berlin; indirectly, and by a process still continuing, it founded the modern navy of the States.[50]

From April to June, 1889, commissioners of the three Powers met in Berlin where they agreed to impose upon Samoa an autonomous government without consulting the wishes of the people or their rulers; this was little more successful than the earlier system of tripartite rule and protection by the Powers. On the death of King Malietoa in 1898 the Americans and English recognized his son, Tanu, as king, while the Germans supported Mataafa whom the Samoans generally wanted as king. Rear Admiral Kautz on the U.S. SS. *Philadelphia* was sent to support Tanu. He ordered the dissolution of Mataafa's government; the latter, supported by the German consul, did not acquiesce, and the American ship bombarded Apia on March 15;

[50] Robert Louis Stevenson, *A Footnote to History,* chap. x.

American and British marines were landed to fight the Samoans; and shortly the American and two British warships bombarded other towns along the coast which were in sympathy with Mataafa. The Germans took no part in these demonstrations, having been severely criticized by the American Commander Leary a decade earlier when their gunboat, the *Adler*, had done what the Americans and British were now doing, but the Kaiser made a furious attack on Lord Salisbury in a letter to Queen Victoria.

> This way of treating Germany's feelings and interests has come upon the people like an electric shock and has evoked the impression that Lord Salisbury cares for us no more than for Portugal, Chile or the Patagonians, and out of this impression the feeling has arisen that Germany was being despised by his Government, and this has stung my subjects to the quick.[51]

This drew a rebuke from his imperial grandmother, ". . . I doubt whether any Sovereign ever wrote in such terms to any sovereign, and that sovereign his own Grand Mother about her Prime Minister."[52]

In these affairs there was not much to choose among the three Powers, and on the whole their attitude toward the aspirants to the kingship and the natives was dictatorial, faith-breaking, and at times cruel.

In 1899, by a tripartite convention, Great Britain agreed to renounce its claims in Samoa for compensation elsewhere, and the archipelago was divided between Germany and the United States; Germany received the larger and more populous islands in the western part of the group and the United States those to the east, including Tutuila with Pago Pago, the best naval base in the South Seas. This convention did not grant sovereignty to the United States since Great Britain and Germany merely renounced in favor of the United States all their claims to the eastern islands. In 1904 President Roosevelt accepted the cession of the eastern group, which became American Samoa, made by the island chiefs in 1900. The government of these islands is by Executive Order with administration through the Navy Department. Not

[51] *Die grosse Politik der europäischen Kabinette* (1871–1914), XIV, 615.
[52] *Ibid.*, p. 620.

until 1929[53] did the 70th Congress formally accept the cession of the eastern Samoan Islands and appoint a commission for inspection of the islands with a view to formulation of legislation. The commission consists of two senators, two members of the House, and three to be appointed from the chiefs of the island of Eastern Samoa. Its visit of inspection is likely to take place in 1930. In American Samoa the imports for 1926 were $148,163, and the exports $78,033, practically all copra.[54] The population in 1930 numbered 10,055.

If the United States possessed additional islands south of the equator, the strategic value of American Samoa would be increased. In 1910 Secretary Knox made a tentative offer for the Galapagos Islands, which are 500 miles west of Ecuador, but negotiations were discontinued because of adverse public opinion in Ecuador. There seems to be no evidence that the United States Government has tried to obtain the French islands in the South Seas, but the rumors that these islands might be accepted as part payment of the War debt to the United States led the French Government to state in 1920 that no cession of the French islands was contemplated.[55] In 1914 New Zealand forces occupied German or Western Samoa.

Pacific Mandates.

The situation in the Pacific has been altered as a result of the World War by the creation of British, Australian, New Zealand, and Japanese mandates over former German island possessions. President Wilson had succeeded at Paris in having the secret treaties of 1917 abrogated and the mandate system substituted. The principles of the mandate are stated in Article 22 of the Covenant of the League.

To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern

[53] Public Resolution 89, amended by Public Resolutions 3 and 11 of the 71st Congress.

[54] *Statesman's Year-Book,* 1929, p. 627.

[55] George H. Blakeslee, *Foreign Affairs,* October, 1928, p. 143.

world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilization and that securities for the performance of this trust should be embodied in this Covenant.

The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who by reason of their resources, their experience or their geographical position can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League.

There are territories, such as South-West Africa and certain of the South Pacific Islands, which, owing to the sparseness of their population, or their small size, or their remoteness from the centres of civilization, or their geographical contiguity to the territory of the Mandatory, and other circumstances, can be best administered under the laws of the Mandatory as integral portions of its territory, subject to the safeguards above mentioned in the interests of the indigenous population.

Article 2 of the "C" Mandates in the Pacific further defines the powers of the Mandatory.

The Mandatory shall have full power of administration and legislation over the territory subject to the present Mandate as an integral portion of the Commonwealth of Australia, and may apply the laws of the Commonwealth of Australia to the territory, subject to such local modifications as circumstances may require.

The Mandatory shall promote to the utmost the material and moral well-being and the social progress of the inhabitants of the territory subject to the present mandate.

The desire of President Wilson to deprive these islands of military significance resulted in the prohibition of military training of the natives except for purposes of internal police and local defense, and of the erection of military and naval bases or fortifications.

In May, 1919, the Allied Supreme Council of the Peace Conference awarded the "C" Mandates over the German islands of the Pacific; that over Nauru was given to the British Empire, that over German Samoa to New Zealand, that over Kaiser Wilhelmsland (German New Guinea) and the Bismarck Archipelago to

Australia, that over the German islands in the North Pacific, i.e., the Pelew, Caroline, Mariana, and Marshall Islands to Japan. This award was confirmed by the Council of the League in 1920. In connection with the dispute over Yap, the broad contention made by the United States was that mandates were ineffective without the participation in the award of the United States, which had been one of the Powers associated in the victory over Germany; it maintained further that the provision of the sixth paragraph of Article 22 of the Covenant allowing the administration of the "C" Mandates "under the laws of the mandatory as integral portions of its territory" is inconsistent with the theory of the administration of these dependent peoples as "a sacred trust for civilization." The objections were abandoned in respect to Yap and the other Japanese mandates when in 1922 the United States signed a treaty in which it accepted the authority of Japan as mandatory over the islands. At this time Secretary Hughes told the Japanese that he would not press the issue of natural resources since he understood that the islands had no natural resources worth considering. As yet the United States Government has not officially recognized the legality of the Pacific mandates of Australia, New Zealand, and Great Britain.

Such questions, relating to the mandatory system, as the locus of the power to amend the mandates, the entity in which sovereignty over mandated areas resides (if indeed it is necessary that "sovereignty" should be found somewhere), the extent and application of the principles embodied in the Covenant for the protection of native populations,—such questions as these, at present mainly academic as international problems, may raise difficulties hereafter. One which has arisen in practical form is that mentioned later in connection with the discussion of Samoa, viz., the existence and the extent of any obligation on the part of the Mandatory to allow equal opportunities to other members of the League of Nations or of other countries whatsoever for trade and commerce, migration and residence, and similar matters. The Japanese at the beginning of the discussion on mandates at the Paris Conference demanded full equality in these matters for Japan, presumably also for the nationals of all other countries.

From the fundamental spirit of the League of Nations, and as the question of interpretation of the Covenant, His Majesty's Government have a firm conviction in the justice of the claim they have hitherto made for the inclusion of a clause concerning the assurance of equal opportunity for trade and commerce in "C" mandates. But from the spirit of conciliation and coöperation and their reluctance to see the question unsettled any longer they have decided to agree to the issue of the mandate in its present form. That decision, however, shall not be considered as an acquiescence on the part of His Imperial Japanese Majesty's Government in the submission of Japanese subjects to a discriminatory and disadvantageous treatment in the Mandated territories; nor have they thereby discarded their claim that the rights and interests enjoyed by Japanese subjects in these territories in the past should be fully respected.[56]

The United States, aligning itself with Japan, contends also for the open door principle in the mandated areas, including freedom of immigration. In adjusting the controversy over Yap, by the Treaty of 1922, the United States consented to the Japanese mandate, on the condition that the United States, although not a member of the League, receive the benefits of the engagements of Japan with members of the League in regard to these islands, that American missionaries reside and establish schools there, that American nationals hold property on a basis of equality with Japanese or any other nationals, and that the existing treaties between the United States and Japan be applicable to the mandated territory—this provision virtually means the right to trade. Also, by Article 3 of this Treaty the United States obtained the right for its nationals to land and operate the existing cable of Yap-Guam and any cable which it may wish to build. At Paris, President Wilson had taken the position that this cable should be internationalized, but, in spite of his verbal reservations in regard to Yap, the award of the island, as a mandate to Japan, was made by the Allied Supreme Council and confirmed by the League Council. The Guam-Yap-Shanghai cable, formerly owned by the Germans, whose Shanghai end had been pulled up to one of their own islands by the Japanese, was a shorter and safer route to China than the American-owned Guam-Philippines-China cable,

[56] League of Nations, *Official Journal,* January–February, 1921, p. 95.

hence the desirability of some share by Americans in the operation of a cable with such advantages both for commerce and for communication with the Far East.

In 1927 the total exports from the Japanese mandated islands amounted to 7,867,955 yen, of which 7,827,346 yen worth went to Japan; the total imports were 3,814,511, of which 3,621,167 came from Japan.[57]

The British Dominions have never agreed to the theory of equality in the "C" mandated territories. The chief condition, they contend, on which they agreed to the application of mandates to the territories which they wished to annex was that the principle of equality for other members of the League should not be applied to these territories. According to their interpretation, "the safeguards . . . in the interests of the indigenous population," which the last clause of Article 22 of the Covenant requires them to apply, do not include equality of commerce.[58]

In the Australian mandates the Australian Parliament legislates for the territory; Australian legislation is ordinarily not in force, but the Governor General of Australia may issue ordinances which become laws unless disallowed by the Australian Parliament. The Commonwealth Immigration Act of 1901–20 extends the principle of "white Australia" to the mandated areas, virtually excluding all but "white" immigrants. Australia has not applied preferential tariff rates, as New Zealand has done in Samoa, but a New Guinea Trade Agency at Sydney controls most of the New Guinea trade, buying government supplies for the plantations expropriated from Germans. The United States has no treaties with Australia giving it any kind of commercial or economic rights and privileges, and is therefore not in a position to contend, as it did in the case of the Japanese mandates, that a commercial treaty with the Mandatory as to its own territory must be extended to the areas which it has taken under mandate.

[57] *Annual Report* to the League of Nations on the Administration of the South Sea Islands under Japanese Mandate, 1928, p. 105.

[58] For the counter-arguments, *e.g.*, that equality of commerce is in the interest of the native population, and that the mandatory administration is carried on in behalf of the League and not of the Mandatory, see Elizabeth Van Maanen-Helmer, *op. cit.*

The "Samoa Act" of 1921 and amending act of 1923 form the constitution for former German Samoa, now under mandate to New Zealand. There is a New Zealand administrator, assisted by a legislative and a consultative council, but the New Zealand Parliament legislates, and the Governor General of New Zealand with the consent of the Executive Council may issue Orders in Council applicable to Samoa. New Zealand regulates its immigration restrictions by permits issued in accordance with an indeterminate quota system. There is considerable native unrest, and some of the natives have petitioned that the mandate be transferred to Great Britain or to the United States.

The number of natives in Western Samoa in 1928 was estimated to be 39,215; Chinese and Melanesian laborers numbered 965 and 147 respectively.[59] In 1928 the total trade of the mandated territory was £748,728, an increase of £108,381 over 1927.[60] In 1920, by a New Zealand Order in Council, duties were fixed on foreign goods entering Western Samoa with preferential rates for British goods. The United States Government protested to the British Foreign Office against this discriminatory tariff as a violation of the 1899 Convention of Berlin by which citizens of Great Britain, of Germany, and of the United States were to have equal rights of trade in the Samoa Islands. The question has not been settled. It is complicated by the objections of the citizens of New Zealand to the extension to American Samoa in 1920 of the United States coastwise shipping laws which exclude foreign shipping.

Germany has indicated that since its entry into the League and upon the withdrawal of the armies of Rhineland occupation it will be free to ask for the return of some of its former colonies and to demand the full enjoyment of the commercial privileges of a member of the League, in consequence of which it may feel disposed to raise questions as to the discriminatory legislation of Australia and New Zealand applied to their respective mandated areas.

[59] *Mandated Territory of Western Samoa*, Report for year ended March 31, 1929, pp. 6 and 11.

[60] *Ibid.*, p. 2.

CHAPTER SEVEN

MIGRATION IN THE PACIFIC AREA

THE *Survey*, 1929, contained an examination of United States immigration policy, beginning with the minor conditions or limitations imposed by the states of the young republic, continuing with the assumption of control by the federal government, and concluding with the erection of barriers against the rising waves of immigration, as the demand for unskilled labor decreased and Congress reached the conclusion that the "new" and growing immigration from east and southeast Europe was less assimilable than that which preceded 1890.

That study took into account the conditions and impulses which have determined the volume and character of immigration from Europe, and discussed the biological theories which have been advanced in favor of a free or a restrictive immigration policy, and the various proposed bases of restriction. Oriental immigration was considered only in so far as it contributed to the development of an American exclusion policy and sequent legislation. The following account is intended to round out the subject by giving the movements of population which directly interest the United States in the vast stretches bordering on the Pacific.

The subject gains an additional interest from the effect of population growth and movement on political attitudes. In the time of the Grand Monarque, Vauban said that "the number of their subjects measures the grandeur of kings." Napoleon expressed the same idea more brutally in answering Madame de Staël's question as to who was the greatest woman of all time, "She, Madame, who furnished the most cannon-food at her country's need."[1] A twentieth-century Mussolini sees power in the same terms: "In disciplined, enriched, cultivated Italy there is room for 10,000,000 more men. Sixty million Italians would make their weight felt in the world."[2] Vaguely but generally associated with the numbers of citizens is state power. European nationalism

1 Both quotations are from Edward M. East, *Mankind at the Crossroads*, p. 51.
2 *Gerarchia*, September, 1928.

includes the idea that the surest measure of a country's greatness is a rapidly and continuously waxing population; as between strong nations, well organized, equal in national genius and possessing equal resources, superiority in war may well lie with the nation which has preponderant numbers. Ignoring the conditions under which this thesis is valid, the popular mind has applied it to the comparison of strong nations with those loosely organized, and has persuaded itself that numbers measure strength and that the nation which multiplies the fastest outfoots all others in the contest for existence. The contrast between the nine hundred and fifty millions of Asia and the one hundred and twenty millions of the United States inspires a genuine apprehension no less than the more rabid fears associated with the "yellow menace."

Apprehension is felt in certain quarters regarding an alleged decline of the old American stock. In the early period of English settlement in America the population grew rapidly by natural increase. The early American families justified, with remarkable frequency, the estimate of Matthews Duncan that "a normal woman among civilized races living in wedlock throughout the mature period under favorable circumstances should bear from ten to twelve children."[3] But in the course of fifty years the increase and wider distribution of prosperity, the growth of inherited wealth, and the various factors associated with a higher standard of living, though stimulating certain coöperative and collectivistic practices, yet have induced a spirit of individualism and a loosening of traditions. In consequence there have appeared in this country the population tendencies that have long characterized France and now characterize most of Europe, i.e., a decline in the number of births averaged to each woman of breeding age. As yet the declining death rate still permits an actual increase of population but the composition of the population is changing; there are relatively fewer women of child-bearing age, and the present maintenance of gross numbers may mask the potentiality of a future decline.[4]

[3] A. M. Carr-Saunders, *The Population Problem*, p. 100.

[4] R. R. Kuczynski, *The Balance of Births and Deaths* (New York, 1928), I.

Dwelling fondly in the past, political imagination can be easily excited by a contemplation of former cataclysms, and the suggestion of a historic parallelism. The population pressure of yellow multitudes is supposed to threaten the same dangers to American civilization as came to Rome from

> those fair warriors, the tall Goths, from the day when they led their blue-eyed families off Vistula's cold pasture-lands . . . and in the incontaminate vigor of manliness, . . . tore at the ravel'd fringes of the purple power. . . .

and Malthus' classic picture of the "clouds of Barbarians"[5] still affects men's minds. Such events afford no parallel to present conditions. The hammer-strokes recorded by Malthus are barbarian conquest-migrations in which whole races or segments of races were on the move. The condition of such events is the uprooting of a whole tribe or the breaking off of an integral segment, driven by restlessness and supported by hardy enterprise, powerful motives operating upon races of tremendous will. There is little danger that to the assistance of individual migration organized conquest will be brought by "yellow" people against "white" people who have encompassed and organized a territory politically and socially.

Certainly there is no reason for governments to come into conflict over such an issue. Experience has left no doubt that emigration affords no more than the briefest relief to an increasing population pressure. The fecundity of China or Italy does not decline because Chinese or Italians emigrate, whether to Malaysia, Brazil, California, or Italian colonies; population may even increase until it reaches the former pressure point. This was reported and understood in the eighteenth century:

> The population of the thirteen American states before the war was reckoned at about three millions. Nobody imagines that Great Britain is less populous at present for the emigration of the small parent stock that produced these numbers. On the contrary, a certain degree of emigration is known to be favorable to the population of the mother country.[6]

[5] Malthus, *Essay on Population,* chap. iii.

[6] *Ibid.,* chap. vi.

Who can now find the vacancy made in Sweden, France, or other warlike nations by the Plague of heroism forty years ago; in France by her expulsion of the Protestants; in England by the settlement of her colonies; or in Guinea, by one hundred years' exportation of slaves that has blackened half America?[7]

The solution of population congestion lies more in the direction of freedom of trade than of freedom of migration. Density of population becomes of less consequence under free specialized production and ease of communication and transportation. The term "over-population" implies the acceptance of some such criterion as Carr-Saunders calls an optimum number of people. Presumably this optimum is taken to be the number of people in a given area who with existing resources and arts of production can obtain the highest standard of living. The optimum population probably means increasing density as the arts of production become more efficient. It is also highly characteristic of the most prosperous modern nations that the densities of populations within their borders vary widely from place to place.

Atlantic versus Pacific.

Migration in the Pacific area is still in its infancy. As against the fifty-five million Europeans who traversed the Atlantic during the years 1820–1924, not more than one million Asiatics have crossed the Pacific to take up residence in the New World since the beginning of recorded migrations.[8] For the ten-year period preceding the World War the average yearly immigration from Europe, with its five hundred million people, was greater than the recorded immigration of all time from those Asiatic countries

[7] Benjamin Franklin, *Observations Concerning the Increase of Mankind, Peopling of Countries,* etc. (Boston, 1755).

[8] "Prior to the establishment of current systems of migration statistics in the nineteenth century (Great Britain, 1815; United States, 1820) records and lists of emigrants were frequently kept." *International Migrations* (National Bureau of Economic Research, 1929), I, 78.

In China, records were started at Amoy in 1845; for Japanese records of passports were begun in 1868, and emigration statistics are available since 1898.

"Genuine migration statistics, distinguishing overseas from continental migrants and taking account of the more important movement of native labor, were introduced after the War." *Ibid.,* footnote, p. 223.

which lie in the western Pacific area and have an equal population.

Conditions of relatively recent origin account for these contrasts in the flow of people. A hundred years ago the masses of Europe were almost as immobile as are those of Asia today. But a movement of liberation was born of the industrial and political revolutions. People's minds were awakened to the possibilities of individual enterprise, and with ease of movement of goods came the movement of human beings. Steam navigation afforded a ready means of transportation to the New World which needed strong arms and promised a more stable existence.

Asiatic migration also was restricted by tradition and political barriers. Chinese overseas migration began in the seventh century with the settlement of Formosa and the Pescadores Islands. The resulting trade routes to British Malacca, the Dutch East Indies, and the Philippines led to the second migration beginning with the fifteenth century. The Malay Archipelago, Java, Sumatra, Borneo, the Sulu Archipelago, and the Philippines were colonized. In 1712 Chinese residing abroad were prohibited from returning home under penalty of death sentence.[9] As Chinese ports were opened by treaty, the third period of emigration began; the numbers leaving the treaty ports were small at first, but when, about the middle of the nineteenth century, Spain, Portugal, Holland, and Great Britain began looking for labor for the industrial and commercial development of their colonies and contract-coolie emigration was legalized, they increased and by 1873 amounted to 13,016.[10]

"From 1636 to 1866 emigration from Japan was a capital offense, and the stream did not begin to flow freely until the eighties of the last century."[11] Indian overseas emigration began soon after the abolition of slavery in the British Empire in 1838. By a series of acts since 1837 the Government of India has provided for the welfare of the emigrant and controlled the number to meet opportunities abroad.[12]

[9] Ta Chen, *Chinese Migrations, with Special Reference to Labor Conditions* (Washington, 1923), p. 20.

[10] *International Migrations, op. cit.*, I, 151.

[11] *Ibid.*, p. 160.

[12] *Ibid.*, pp. 140 ff.

Unlike the early European migrants—yeomen colonists who crossed the Atlantic to till their own holdings in the New World —the early Asiatic migrants were mainly indentured laborers who were imported to work on plantations in the West Indies or southern Pacific, or free laborers who came to assist the white pioneers in the development of their settlements in the coastal regions of North America, Australia, and New Zealand. Discoveries of gold stimulated immigration into California, Australia, New Zealand, and Canada, but even in these cases the number of arrivals was soon adjusted to the white pioneer's conception of his labor requirements. Remote from the centers of population and political control, the western white settlements had developed an unusual degree of local consciousness and corporate behavior, and they acted with great vigor in regard to Oriental immigration. Additional population was wanted for purposes of labor only. The Asiatics who came to the western seaboard of America or to the white settlements of the southern Pacific, found themselves associated with peoples of strikingly different racial and cultural traits which had developed during a long period of semi-isolation.

Settlement Areas.

Considered from the standpoint of population changes, the various Pacific regions vary greatly. Of the western Pacific countries only Japan and Java show rates of natural growth comparable with those of European peoples. Since Japan was opened to western commerce its population has risen from 32,000,000 to 60,000,000,[13] and in fifteen years (1905–20) the population of the Netherland East Indies increased from 38,070,389 to 49,350,834.[14] Neither of these populations has as yet shown any pronounced tendency toward emigration. In many respects the Japanese are more European than Asiatic. Their migrations bear a much closer resemblance to European migrations than to those of other Asiatics; a western standard of living bars them from the plantation regions of the South Seas except

[13] *Problems of the Pacific* (1927), Proceedings of the Second Conference of the Institute of Pacific Relations, Honolulu, 1927, p. 340.

[14] *Commerce Yearbook,* 1928, II (Foreign Countries), 439.

in the capacity of Europeans, that is, as commercial and industrial promoters. Only within recent years have the people of Japan begun to seek homes in foreign lands, and up to the present few Javanese have gone further than the plantation regions in neighboring islands. Two regions are notable for immigration—British Malaya and Manchuria. The increase in the population of the former from slightly over a million in 1901 to 3,332,603 (census data) in 1921, and of the latter from about 14,000,000 in 1900 to 30,000,000 in 1928, is almost wholly attributable to net migration.

In the Caucasian areas of the Pacific nearly all the settled regions attract immigration. About 30 per cent of the net annual gain in the population of Australia is due to migration.[15] In the three Pacific Coast states of the United States the population has a still larger proportion of newcomers. In 1920 only 30 per cent of the native white population of Washington was born within the state; the ratios for Oregon and California were 37.8 and 37.3 respectively.

Although climate influences not only the economic structure of an area but also the white man's appraisal of its fitness for settlement, both change with the growth of science and the improvement of communications. At one time the Pacific Coast was thought to be too remote for white settlement. A commission, appointed to inquire into making "an establishment" at the mouth of the Columbia River in order to reap the benefits of the fur trade, recommended the importation of Chinese, with their wives and children, as settlers. Experience had shown, the commission said, that family life keeps men's minds "from pursuits which often in frontier countries lead to strife."

> And though the people of that country (China) evince no disposition to emigrate to the territory of adjoining princes, it is believed they would willingly, nay, gladly, embrace the opportunity of a home in America where they have no prejudices, no fears, no restraint in opinion, labor, or religion.[16]

[15] Phillips and Wood, *The Peopling of Australia* (Melbourne, 1928), p. 52.

[16] *Annals of Congress,* Sixteenth Congress, Second Session, January, 1821, pp. 956–957.

But once steamships and railways had made these salubrious areas accessible to western settlement a sudden change of attitude took place and "white" immigration policies were developed.

White People in the Non-Caucasian Pacific.

Although Europeans have been in contact with the peoples of eastern Asia for several centuries and in continuous intercourse since the middle of the nineteenth century, at present only a few western white people are resident there, and despite trade expansion between eastern and western countries their number shows little tendency to grow. Moreover, except for a part of the missionary population, they are almost exclusively confined to the large modern coast cities which contain European quarters of an official or unofficial character. The European and American populations of Japan are almost stationary, the latter declining slightly from 1926 to 1927—2,134 as against 2,012;[17] the British population increased slightly in this interval but almost all the other European nationalities remained the same or decreased slightly. In China the total white population, excluding Russians, was only about 32,000 in 1927, of whom 11,714 were British, 6,970 Americans, 2,588 French, 2,719 Germans, and 2,061 Portuguese.[18] Although Americans have had contact with China since clipper-ship days, not until after the Civil War did they begin to take up residence in China, and even then largely in the capacity of missionaries. According to Dr. Otte's figures there were 1,153 United States citizens in China in 1890 but only thirty-two American firms. During the next decade the number of firms increased to ninety-nine but the number of persons scarcely doubled. From 1900 to the present the ratio of American firms to persons has steadily increased, amounting to one firm to every twelve American citizens in 1927 as opposed to one firm to every thirty-six persons in 1890. In 1923, the peak year of American population in China, about half of the total of

[17] Foreign office figures.

[18] See Dr. Friedrich Otte, "Foreigners in China, A Statistical Survey," *Chinese Economic Journal*, III, No. 6, pp. 993–1002.

12,530 were missionaries. By the beginning of 1928 the number had dropped to 8,569 of whom nearly half were in Shanghai.[19]

The West entered the East at the top of the occupation pyramid; the East entered the West at the bottom. This contrast in levels of invasion has important bearing not only upon interracial attitudes, the individual being taken as representative of his race, but also upon the duration of stay and the territorial distribution of foreign residents. The Oriental immigrants who came to America as unskilled laborers are gradually working up the economic ladder, and as they rise they become more widely distributed throughout the country. But the Westerner who enters Asia at the top of the occupational pyramid cannot descend in the economic scale; when he fails to maintain his original status his homeland is his only refuge. On the other hand his position at the top is usually temporary; in course of time the local people learn his technique and gradually displace him.

According to the Committee on Industry and Trade,[20] the foreign trade of Japan until about thirty years ago was almost entirely in the hands of non-Japanese merchants, mostly British. As the Japanese realized that a large share of the resulting prosperity was going into foreign pockets, they organized firms, in some cases with indirect governmental aid, which gradually established branches in all parts of the world. A similar situation has evolved in China although because of political instability the Chinese have not yet been able to organize business to the same extent. The white populations of Hawaii and Malaya have been able to maintain their position at the peak of the occupation pyramid but are gradually being displaced by other races in mercantile and professional services.[21]

Japanese Migration.[22]

Japanese immigration may be divided into three periods: (1)

[19] See the succinct analysis of the present distribution and activities of the American population in China, by Mr. Julean Arnold, United States Commercial *Attaché* in Peking: *China, a Commercial and Industrial Handbook* (1926).

[20] *Survey of Overseas Markets* (1927), p. 412.

[21] Andrew W. Lind, *Journal of Social Forces,* December, 1928, p. 293.

[22] For a more extensive discussion of Japanese immigration, see *Survey,* 1929, pp. 501 ff.

prior to 1907, the year when the Gentlemen's Agreement went into effect; (2) from 1907 to the introduction of the exclusion measure in 1924; (3) from 1924 to the present. Japanese migration has been much more definite and measurable than Chinese. From 1868, the year when the Secretary of State for Foreign Affairs began to issue passports to Japanese passengers going abroad, until 1924, when exclusion from the United States became effective, the Japanese Government has issued a total of 1,187,566 passports to passenger citizens. Of this number 197,902 were issued to persons going to continental United States, and 238,291 to persons going to Hawaii—together constituting 36.7 per cent of the total of passports issued. During the same period 30,491 passenger citizens left for Canada, 12,261 for Mexico, and 49,668 for various South American countries, mainly Brazil and Peru.[23] Inasmuch as emigrants constitute a large percentage of the total outflow, the statistics are significant in showing the leading streams of emigration.

Although Japanese overseas emigration began about 1866, it did not amount to more than 1,554 until 1885, when 3,461 left the country, of whom 1,959 went to Hawaii. Arrangements were made by the Kingdom of the Hawaiian Islands with the Empire of Japan for the bringing in of contract laborers to work on sugar plantations. This marked the beginning of Japanese migration to those islands, and Hawaii remained the leading destination until 1908, receiving until 1891 almost half of the total number of Japanese going abroad. In 1893 the total number of passports issued by the Japanese Government to citizens going abroad was 13,669, in 1895 it increased to 22,411, and in 1896 to 27,565. Ten years later, during the Russo-Japanese war, 19,466 passenger citizens left Japan. The following year, 1906, was the peak year of Japanese immigration to Hawaii, and 58,851 passports were issued of which 30,393 were to persons going to Hawaii and 8,466 to persons going to continental United States.[24] Inasmuch as Hawaii was by this time an integral part of the United States, many of these crossed to the continent

[23] Facts compiled from *International Migrations, op. cit.*, I, 934.
[24] *Ibid.*

without any official record being made of their entry. Their arrival occasioned alarm in the Pacific Coast states and resulted in an Executive Order of March 14, 1907, which ordered that

> Japanese or Korean laborers, skilled or unskilled, who have received passports to go to Mexico, Canada, or Hawaii, and come therefrom, be refused permission to enter the continental territory of the United States.

A short time later the so-called Gentlemen's Agreement was consummated according to which the Japanese Government agreed to refuse passports to laborers, skilled or unskilled, seeking to enter continental United States. Similar restrictions were made applicable to the Hawaiian Islands and Mexico. By 1906 streams of migration had developed to Canada, Mexico, and Peru. The movement to Mexico lasted only two years, but by 1912 Brazil was receiving over a thousand passenger citizens. Meanwhile the migration to the south Pacific and other regions fluctuated in volume and varied in direction in response to legal limitations and economic conditions. The following table, furnished by the Japanese Embassy, shows the general distribution of Japanese in foreign countries according to the latest statistics compiled by the Government:

JAPANESE RESIDING ABROAD

	Male	*Female*	*Total*
Asia	163,225	136,469	299,694
Europe	2,741	202	2,943
North America	89,984	45,671	135,655
South America	30,256	17,266	47,522
Africa	49	23	72
Oceania	69,108	48,374	117,482
	355,363	248,005	603,368

The census returns by decades give a brief but significant account of the growth of the Japanese population in continental United States and Hawaii.[25]

[25] Prior to 1900, the first census in which Hawaii was included in United States data, the figures for Japanese in Hawaii are taken from Romanzo Adams, *The Peoples of Hawaii* (Institute of Pacific Relations, Honolulu, 1925), p. 7.

Year	*Continental United States*		*Hawaii*
1870	55		..
1880	148	(1884)	116
1890	2,039		12,860
1900	24,326		61,111
1910	72,157		79,675
1920	111,010		109,274
1922	115,186		112,221

Net Immigration.

The characteristic desire of Orientals to return home seems to warrant special consideration, as net rather than gross immigration is significant.[26] From 1909 to June 30, 1929, 19,356 more Chinese left the United States than entered it, at least so far as official records are concerned, while the net increase in the Japanese population due to immigration was only 1,640. Undoubtedly the outward movement during this period was relatively much greater than in earlier years. By 1908 laborers of both groups had been excluded, the Chinese by the Act of 1882, and the Japanese by the Gentlemen's Agreement of 1907. These restrictive measures had reduced the inflow of Japanese immigrants from a total of 133,557 (1900–1908) to 60,308 (1909–17), and perhaps accentuated the return movement to the Orient as they implied agitation and prejudice on the part of Americans toward Orientals already here.

Age and Sex.

The age and sex composition of Oriental immigration merits some consideration not only because it concerns the Oriental population of the country, but also because it affects the ad-

[26] A word of caution should be given with regard to the interpretation of migration statistics. The common practice has been to gauge net immigration by subtracting the number of emigrant aliens from the number of immigrant aliens and to assume that the difference represents net immigration. While this practice is fairly sound with reference to European migration it is misleading when applied to Orientals. A more nearly reliable criterion of net Chinese and Japanese immigration is found by subtracting the total departures from the total arrivals irrespective of status classification. Data for this are available only since 1908. "Taking the figures for a recent period as a guide, aliens of the returning resident class comprise over three-fifths of the Japanese nonimmigrants, about one-fourth of the Chinese nonimmigrants, and a little over one-half of the European nonimmigrants." From a letter written by Harry E. Hull, Commissioner-General.

ministration of the immigration law. Chinese immigration tends to be predominantly male, as indicated by the sex ratios in the different regions of settlement. In Australia the ratio of Chinese males to females is 16 to 1; in New Zealand about 14 to 1; in Canada, 35 to 1; in British Malaya, 12 to 1. This sex disparity is striking also in continental United States, although there is a tendency toward equalization. In 1900 the ratio of Chinese males to females was 21 to 1; in 1910, 16 to 1; in 1920, 8 to 1. The ratio for Hawaii is more nearly normal; in 1920 there were only about 2 males to 1 female. In all places from which further immigration is barred, the effect of this sex disparity tends to leave the Chinese a declining population until the proportion of the sexes is approximately equalized in the second or third generation. The Chinese population of the United States has shown a substantial decrease in each of the last three census returns and the 1930 census will doubtless show a still further decline.

Maintenance of their families in China by Chinese men in America adds to the burdens of immigration officials. Under present legal restrictions, the two main classes of Chinese admitted are the children, mostly males, of "treaty merchants" (Treaty of 1880), and Chinese United States citizens who have acquired citizenship by virtue of the fact that either they themselves or their fathers were born here. The latter constitute about a third of the total number of Chinese admitted. Between 1925 and 1929, 15,405 Chinese American citizens entered the United States. The problem of proving legal right to entry is the source of much irritation and misunderstanding.[27]

In the case of Japanese immigration the early preponderance of males was temporary. As soon as the young men became settled in the country they straightway sought to establish family life. Although the percentage of married males, fifteen years and over, to all males, was about the same for the Chinese and Japanese in 1920, 49.7 and 54.5 respectively, the proportion of married Japanese having their wives in the United States was almost six times that of the Chinese.

[27] See R. D. McKenzie, *Oriental Exclusion* (Chicago, 1928), chap. v; and *Survey*, 1929, p. 500.

This tendency on the part of Japanese immigrants to establish family life has an important bearing on their selection of occupation as well as upon the growth of the local Japanese population. It has contributed to the withdrawal of Japanese from Hawaiian sugar plantations, Alaskan canneries, and western camp life, and to their adoption of more settled occupations. In 1907, 2,685 Japanese were employed in logging camps in Washington but by 1924 the number had declined to 1,458, although the total number of employees in the industry had increased 30 per cent during this period. Moreover the Japanese who remain in the logging industry have to an unusual extent settled in the more stable camps where they could live with their families. Thus while the Chinese population in the United States is steadily declining, the number of Japanese is gradually increasing owing to excess of births over deaths.

East Indian Migration.

As far as the United States is concerned Chinese and Japanese are the only Asiatic groups in the Pacific area which in the past have caused immigration problems. East Indian migrations in the Pacific have been largely confined to British possessions; only an insignificant number have found their way into the United States. The census does not record East Indians separately but the Commissioner General of Immigration reports only 8,474 East Indian immigrant aliens between 1899 and 1929; between 1908 and 1929, 2,691 emigrant aliens departed. Prior to 1907 East Indian migration to the United States and Canada was negligible, never more than one or two hundred a year and usually less. The increase in 1907 to 1,072 caused no alarm in the United States, but in Canada an increase to 2,124[28] resulted in the Continuous Passage Ordinance (Order in Council, P.C. 23), an order which caused 372 Indians to be denied admission upon arrival at Vancouver on board a Japanese ship, the *Kamagata Maru*, chartered by a Sikh labor contractor.

Although Indian migration to the United States showed no

[28] As the system of recording migration statistics was changed in this year, this figure is for nine months only.

tendency to increase, the Canadian incident and the fear of probable East Indian immigration at the conclusion of the World War sufficed to bring about the Barred Zone Provision in the Immigration Act of 1917. By this Provision no immigrants were allowed to enter from India or other parts of the western Pacific not already covered by restrictive measures.

The Philippine Islands.

Coming to the Philippines in the tenth century, the Chinese competed with the Arabs there and by the twelfth century had driven them out. During the two and a quarter centuries of Spanish occupation the policy toward the Chinese "alternated between contemptuous toleration, attained apparently by wholesale bribery, and brutal attempts to exterminate them by massacre."[29] In 1898 there was a resident Chinese population of about 40,000 (41,035 in 1903). As soon as the islands came under the jurisdiction of the United States, measures were taken to exclude the Chinese. On September 26, 1898, General Otis "issued a military order applying the American exclusion laws to the islands."[30] Despite the protest of the Chinese Minister, the United States Government in 1902 ratified the order by officially extending its Chinese exclusion laws to the Philippines.

During the first two decades of American occupation, the resident Chinese population showed little tendency to increase, the official census of 1918 recording 43,802, only 2,767 more than the census of 1903. In recent years Chinese residents in the Philippine Islands seem to be increasing more rapidly, as in 1926 their numbers were estimated at 60,000.[31] The estimates of smuggled entries vary widely but in any case the recorded net increase of Chinese aliens between 1925 and 1929 was 14,430; in 1929, 18,385 Chinese aliens arrived and 15,062 departed.[32]

As in many other parts of the south Pacific the Chinese in the Philippines serve as middlemen between the Malay peoples and their western rulers. Their experience, industry, and clannishness

[29] H. F. McNair, *The Chinese Abroad,* p. 88.
[30] *Ibid.,* p. 89.
[31] W. Cameron Forbes, *The Philippine Islands,* I, 17.
[32] *Annual Reports of the Commissioner General of Immigration.*

have put most businesses into their hands. They are engaged extensively in the retail and interprovincial services distributing imported merchandise and collecting from the natives most of the export products.[33]

Japanese immigration is of relatively less significance, mostly confined to Davao province on Mindanao. The census of 1903 recorded only 921 Japanese, that of 1918, 7,806, and the latest official information, October, 1928, furnished by the Japanese Foreign Office, puts the number at 14,000. Between 1925 and 1929 a total of 13,102 Japanese entered the Philippines and 5,781 departed, a net increase of 7,321.[34]

Filipino Migration.

The tables[35] show that Filipinos—and Mexicans also, in the case of the Alaska fisheries—are replacing the Chinese and Japanese as laborers in the industries cited. The process is a replacing rather than a displacing one. The earlier immigrants have graduated to independent agriculture or are concentrated in urban centers. Although going on for years, this "ascensive process" does not become apparent until legislation stops the stream of new recruits. The labor vacuum thus developed at the base of the occupation pyramid is filled by the importation of a different ethnic stock. Wave after wave of different cultural and racial groups has been brought into Hawaii as plantation workers. Portuguese, Chinese, and Japanese have served their apprenticeships in the sugar-cane fields and then moved to the urban centers or withdrawn from the islands entirely; now Filipinos are filling in the ranks. When the Act of 1883 imposed restrictions on Chinese immigration Japanese laborers were imported to Hawaii. Again, when the Agreement of 1907–8 cut off the supply of Japanese workers the planters of Hawaii turned their attention toward the Philippines which by this time had become a territorial possession of the United States. In 1910 and 1911, 4,930 Filipinos were introduced into Hawaii by the Hawaiian Sugar

[33] See *Philippine Islands, A Commercial Survey* (U. S. Bureau of Commerce, 1927).

[34] *Annual Reports of the Commissioner General of Immigration.*

[35] See p. 342.

Planters' Association. Between 1912 and 1924, 52,626 Filipinos went to Hawaii.[36] In 1929, 8,369 Filipino emigrants left for Hawaii, and 3,991 returned. Most of this migration is the result of a highly organized system of recruiting carried on by the Hawaiian Sugar Planters' Association, and, in accordance with an Act of 1915, under the supervision of the Philippine Government. The planters are required to give free transportation, to pay a minimum wage "of 40 pesos per month of 26 days . . . to give free rent, water, fuel and medical attendance" during the period of employment.[37]

A considerable part of the Filipino migration to Hawaii passes on to the mainland where wages are higher and opportunities for advancement more promising. As late as 1910 the census recorded only 160 Filipinos in continental United States; by 1920 the number had increased to 5,603. Since 1920 and especially since the passing of the Exclusion Act in 1924 the stream of incoming Filipinos has increased rapidly with a proportionately diminishing number of returns. In recent years it has taken two courses, one flowing from Hawaii and the other direct from the Philippines. From July 1, 1924, to June 30, 1929, inclusive, 26,006 Filipinos,[38] mostly young male laborers, arrived in continental United States; during the same period 9,790 came from Hawaii. In 1929, 11,360 Filipinos arrived in Pacific Coast ports of continental United States, of whom 8,689 came from the Philippines, 2,654 from Hawaii, and 17 from other places.[39]

In December, 1929, there were approximately 50,000 Filipinos in continental United States, the great majority of whom were concentrated in California and Washington. Unlike the Chinese and Japanese groups who maintain their own local institutions and services, the Filipino immigrants rely upon the institutions of the larger community, coming into contact with the organized charities, the public health service and other welfare organizations. Those of the new arrivals who succeed in finding employ-

[36] *International Migrations,* I, 1022.
[37] *Monthly Record of Migration,* April, 1927, pp. 146–147.
[38] War Department, Bureau of Insular Affairs, Communication, June 2, 1930.
[39] *Annual Report of the Commissioner General of Immigration,* 1929, p. 230.

ment enter the unskilled occupations vacated by the rising group of Orientals who preceded them. Although definite occupational data are lacking, general observation and report indicate that the Filipino immigrants are concentrating in the unorganized domestic services, as waiters, house-boys, elevator operators, and hospital attendants; they are also serving as transient laborers in the truck-gardening areas, in the canneries, and railway gangs. They come into competition with Mexicans, Negroes, and to a certain extent with female workers. Representative leaders of the Negro colony in Seattle assert that as a result of Filipino competition the colored population of that city has decreased by about two thousand during the last four years. Ever since the Philippines became a possession of the United States a small but increasing number of Filipino students have come to continental United States to enter the higher institutions of learning; the return movement has usually balanced this immigration.

The problem of dealing with Filipino immigration is fraught with legal difficulties. The Filipinos are not aliens as defined by the 1924 Act and are therefore not subject to exclusion, but they are as different in culture and race from the people of continental United States as are any of the Asiatics already excluded. And now that they have begun to evince a tendency toward spontaneous migration—the movement to the mainland is entirely spontaneous, and since 1927 a considerable number have come to Hawaii of their own accord—it is not surprising that the anti-Oriental organizations in the Pacific Coast states should direct their attention toward Filipino exclusion. In May, 1928, a bill to exclude Filipino immigrants was introduced by Congressman Welch of California,[40] and organized labor has gone on record as favoring "the immediate grant of independence to the Filipino people" chiefly for the reason that if the Philippines were an independent country Filipinos would be automatically excluded from the United States as aliens ineligible to citizenship.[41]

[40] See Paul Sharrenberg, *Pacific Affairs,* February, 1929, pp. 49–54.

[41] The problem thus arising has a legal aspect as long as the Philippine Islands are under the political jurisdiction of the United States. Judge D. R. Williams, formerly a judge in the Philippines, has expressed the opinion that Congress is

The British Dominions.

During the development of policy and methods of dealing with Oriental immigration to the United States similar attitudes and legal devices, designed to stem Asiatic invasion, were forming in a number of other regions throughout the eastern and southern Pacific. The similarity of devices employed in the British Dominions suggests the contagion of fear and the reciprocal borrowing of procedure. The damming of the immigration stream at one point tended to divert it to others; this caused alarm, and the erection of barriers spread. Canadian experience with Oriental immigration has been almost identical with that of the United States. Attracted by the discovery of gold on the Fraser River sand bars, Chinese began entering British Columbia shortly after their first arrival in California. It is estimated that as early as 1860 over 2,000 Chinese had entered.[42] In 1882 organized importation of Chinese coolies to work in the construction of the Canadian Pacific Railway began, and during the next two years 15,701 were brought into the Province.

By 1900 Japanese immigrants had begun to arrive in British Columbia. The white settlers became apprehensive and protested to the Dominion Government. The matter was brought to the attention of the Japanese Minister with the result that instructions were issued to Japanese local authorities to prohibit temporarily the migration of Japanese laborers into Canada and the United States. This order virtually stopped migration from Japan to Canada for the next five years although it had little effect on Japanese migration to the United States,[43] but following President Roosevelt's proclamation which stopped the movement of Japanese laborers from Hawaii to continental United States, a new crisis arose in Canada, and riots occurred in Victoria and Vancouver. A "Gentlemen's Agreement" between Canada and Japan was then concluded which was similar in substance to the

without constitutional authority to exclude Filipinos; Attorney General Webb of California finds nothing to prevent Congress from taking whatever action it chooses with regard to Filipino exclusion. "Filipino Immigration," *The Commonwealth, Commonwealth Club of California,* November 5, 1928.

[42] R. E. Gosnell and E. O. S. Scholefield, *A History of British Columbia,* p. 185.

[43] See *Survey,* 1929, p. 502.

agreement between the United States and Japan, except that the number of passports to be issued by the Japanese Government to the admissible classes was not to exceed 400 a year. In March, 1924, as a result of further negotiations between the House of Commons and the Japanese Government, the number of passports to be issued annually was reduced from 400 to 150.

Meanwhile Chinese immigration into Canada, which had been checked in 1885 by the imposition of a head tax of $50 which was doubled in 1901 and raised to $500 in 1903, rose again in 1907–8, 1,482 paying the head tax in 1908; increasing numbers continued to arrive, 7,445 entering in 1913. Agitation arose and an Order in Council, December 8, 1913, reduced Chinese immigration. During the World War only a few hundred arrived annually, but in 1918, 4,233 entered. The numbers decreased during the next years and the Chinese Immigration Act of 1923, which prohibits Chinese immigration to Canada other than the usual exempt classes of government representatives, students, and merchants ("defined by what regulations the Minister of Immigration and Colonization may prescribe") shut off immigration; only a few hundred Chinese, all belonging to the exempt classes, have entered since the law became effective.

Australia and New Zealand.

The history of Oriental migration to Australia and New Zealand is strikingly like that of Oriental migration to the United States and Canada. Starting about the same time, it was also lured by gold, and passed through a similar cycle of local conflicts, restrictive measures, and national exclusion founded on a policy of racial selection. In the beginning Victoria, South Australia, and New South Wales attempted to control Chinese competition by poll taxes and legislative measures limiting the number of Chinese immigrants that could arrive on a ship. This checked the movement at certain points only to increase it at others. Gradually the different colonies learned that concerted action was necessary.

Up to the last decade of the nineteenth century the action of the

various colonies toward Chinese immigration was directed toward avoiding the evils which were supposed to be connected with a large Chinese element in the community. Between 1891 and 1901 the feeling evinced gradually developed the "White Australia" policy which excludes all colored people. On the consummation of federation this policy was expressed in the Commonwealth Immigration Act of 1901.[44]

The act, as amended, provides that no person shall be admitted who fails to write out "in the presence of the officer," and from his dictation "not less than fifty words in any prescribed language."[45] This indirect method of excluding Asiatics was first suggested to Australian colonial legislatures by the Imperial Government in 1897 in order to spare the susceptibilities of British Indian subjects of the Crown as well as of foreign Asiatics.[46]

At the time of its inception the Act of 1901 met with vigorous protest from the Japanese Government. Although few Japanese had gone to Australia, Japan did not wish to see the continent locked against it. In response to its protests the Australian Government in 1904 concluded an informal arrangement, a sort of Gentlemen's Agreement, "whereby *bona fide* students, merchants (engaged in oversea trade), and visitors from Japan were permitted to enter the Commonwealth for a stay of 12 months without liability to the dictation test on passports issued by the Japanese authorities and viséed by the British Consul at the port of embarkation."[47] Subsequently similar arrangements were made with the governments of India and China.

During the early years of Oriental immigration to New Zealand the procedure used to check the stream was similar to that of the colonies in Australia. At first head taxes and ship limitation measures were imposed. Later, alarmed by the influx of Chinese following the passage of the Australian Commonwealth Immigration Act of 1901, the Government of New Zealand in 1908 likewise introduced a dictation test. An Act passed in 1920 re-

[44] *Official Year Book of the Commonwealth of Australia,* 1925, p. 955.
[45] Immigration Act 1901–1925, Sec. 3a.
[46] *Problems of the Pacific* (1927), p. 483.
[47] Phillips and Wood, *op. cit.,* p. 84.

pealed this measure and left it to the discretion of the Governor-General to determine what "nation or peoples" might be admitted.[48]

Latin America.

Although many of the smaller Latin-American republics have followed the fashion set by the Anglo-Saxons of erecting legal barriers against Asiatic immigration, some of the countries, notably Brazil and Argentina, encourage Asiatic colonization, especially Japanese.

Mexico has no discriminatory legislation against Orientals as such, but the general requirement of the Migration Act of June 1, 1926, that all immigrant workers must produce a contract of employment in conformity with Mexican law and at the same time possess "sufficient funds to maintain themselves . . . during three months," serves to restrict Asiatic immigration.[49] Organized labor in the United States and Mexico has unsuccessfully attempted to persuade the Mexican Government to enact exclusion legislation against "peoples of Oriental birth or extraction."[50] Naturally the interest of American labor in such legislation is to close what it considers a back-door entrance for Orientals, although there is no evidence that Mexico has been used to any great extent by Orientals as a mode of surreptitious entry to the United States. Between 1911 and 1924 the net immigration of Chinese to Mexico was 10,036 and the net immigration of Japanese, 2,125.[51] According to the 1921 census there were 14,813 foreign-born Chinese in Mexico.[52] The Japanese population in 1927 was only 4,530.[53]

Panama, owing perhaps to United States influence, prohibits by an Act of 1927 the immigration of Chinese, Japanese, East Indians, and certain other non-white peoples.[54] Guatemala forbids the entry of Asiatics in general; Salvador prohibits the im-

[48] Immigration Restriction Act, 1908, Amended, November 9, 1920.
[49] *Monthly Record of Migration,* December, 1926, p. 501.
[50] *Ibid.,* November, 1927, pp. 435–436.
[51] *International Migrations, op. cit.,* I, 503, 504.
[52] *Statesman's Year-Book,* 1928, p. 1100. [53] *Japan Year Book,* 1929, p. 48.
[54] *Monthly Record of Migration,* December, 1927, p. 470.

migration of Chinese citizens; Nicaragua forbids the entrance of citizens of Asiatic races; Costa Rica likewise does not allow Chinese to settle in the country; Honduras is the only Central American republic which as yet has no discriminatory legislation against Orientals.[55] Colombia and Ecuador definitely exclude Chinese. For a time the Peruvian Government forbade the entrance of Chinese immigrants, but in 1909 the restriction was cancelled "on condition that the Chinese authorities restrict the immigration themselves."[56] Chile will not receive Asiatics who come *via* Panama. The other countries of South America have no legislation against Orientals that does not pertain equally to other immigration. Asiatic immigration to South American republics, save that to Peru, Brazil, and Argentina has been negligible.

Post-Exclusion Migration.

Restrictive legislation has proved effective. During the four-year period prior to the passing of the Immigration Act of 1924 a total of 17,226 Chinese immigrant aliens entered the United States, whereas during the four years following its enforcement only 5,078 Chinese immigrant aliens entered. The figures for the Japanese for the corresponding periods are 28,025 and 2,462. Moreover since the passing of the 1924 Act 4,464 more Chinese have departed from the United States than have entered it, and Japanese total departures have exceeded total entries by 18,402.[57] An analysis of the Chinese arrivals shows how few Chinese are actually added to the United States population annually. Of 8,402 Chinese who applied for admission, 8,018 were admitted of whom 4,507 were in transit, 519 temporary visitors, 1,795 domiciled residents who were returning from visits abroad and 699 merchants permitted to carry on trade. And of the remaining 498 Chinese who would be added to the population, only 14 were admitted for permanent residence, that is, "only those who were ministers of a recognized religious denomination

[55] See Ching-ch'ao Wu, *The Chinese Social and Political Science Review,* XIII, No. 2, pp. 161–162.

[56] *Ibid.*

[57] *Annual Reports of the Commissioner General of Immigration.*

or professors of colleges or seminaries, together with their wives and minor children."[58]

Similarly in Canada,[59] there has been a decided reduction in Oriental immigration since restrictive legislation has gone into effect. During the years 1922–24 a total of 3,133 Chinese entered the Dominion, whereas after the 1923 Chinese Immigration Act became effective only two Chinese entered in the years 1925–27. For the three years prior to the Gentlemen's Agreement, 1906–8, 11,565 Japanese immigrants entered Canada, whereas during the next three years, 1909–11, only 1,203 immigrants entered. During 1926–28 Japanese entries to Canada have been about the same as immediately after the Agreement, a total of 1,374 having entered. East Indian immigration to Canada has been practically nil since the *Kamagata Maru* was refused permission to land in 1914; between 1915 and 1928 only 309 Indians have come to Canada, most of whom have been students or tourists.

The dictation test, as used in Australia, seems to have proved a barrier to Asiatic immigration. Only a few Asiatics have attempted to take it and up to 1929 none had passed. The fear of the test and its mode of administration is said to operate as a "stand-off signal"[60] to prospective immigrants. "During the last five years the number of persons who desired but were not permitted to land was 18 in 1922, 49 in 1923, 50 in 1924, 35 in 1925, and 58 in 1926."[61] Those admitted without the dictation test were as follows:

	1923	*1924*	*1925*	*1926*	*1927*
Chinese	1,974	1,917	1,235	1,780	1,767
Filipinos	25	15	22	15	7
From India and Ceylon	141	174	186	188	190
Japanese	222	240	440	328	251

The majority of the persons of Asiatic or other non-European nationality shown in the table are former residents of Australia who have returned from visits abroad or are persons who have been admitted temporarily under exemption certificates for business, education, or other purposes.[62]

[58] *Annual Report of the Commissioner General of Immigration,* fiscal year ending June 30, 1929, p. 17.

[59] *Canada Year Book,* 1929. [60] *Problems of the Pacific* (1927), p. 485.

[61] *Official Year-Book of the Commonwealth of Australia,* 1928, p. 899.

[62] *Ibid.,* 1929, p. 928.

The numbers of Asiatics arriving in New Zealand since the system of permits required by the Immigration Act of 1920 went into effect, do not indicate much change from the preceding years, as shown by the following table.[63]

	Chinese		*Indians*	
	Arrived	*Departed*	*Arrived*	*Departed*
1917	272	313	92	12
1918	256	214	138	19
1919	418	238	193	18
1920	1,477	380	225	54
1921	255	368	137	100
1922	345	362	32	125
1923	365	378	115	66
1924	548	451	128	128
1925	517	524	216	165
1926	613	541	239	164

Between 1921 and 1926 only 119 Indians and 19 Chinese were added to the population.

Besides reducing the volume of Oriental immigration, restrictive legislation has had a selective influence. During the early stages of Asiatic immigration, not only to the United States but to other countries bordering on the Pacific, it was primarily the coolie who migrated, for the frontiers required his labor. His characteristics were taken as typical of Oriental civilization and all Orientals were commonly thought to belong to the same class. Exclusion legislation, wherever it has been applied, has practically eliminated this type of immigrant. As noted above the Asiatics now arriving in the United States under the exemptions provided in the 1924 Act belong almost exclusively to the upper social and economic classes, such as students, government officials, tourists, and merchants. The only Oriental coolies arriving at present are former residents who have been granted return permits. In this respect there is a fundamental difference between the Chinese and Japanese who enter the United States. Owing to the fact that two classes of Chinese—United States citizens and children of "merchants"—enter in larger numbers than do similar classes of Japanese (the definition of a Chinese merchant is that of the Chinese Exclusion Laws which were in effect prior to the Act of 1924), a much larger percentage of Chinese than of Japanese

[63] *New Zealand Official Year-Book*, 1928, p. 88.

entries since 1924 has been of the coolie class. By the older laws Chinese engaged in local forms of business are allowed to enter as merchants; whereas the only Japanese merchants allowed to enter are those engaged in international trade as defined in the 1924 Act. Moreover the fact that the Chinese maintain their families in China while the Japanese have established homes in the United States makes for a larger immigration of Chinese who assert they are United States citizens.

By changing the character of Asiatic immigration the Act of 1924 is also changing its distribution within the country. The coolie immigrants of pre-exclusion days almost invariably found employment close to the Pacific ports of entry and only as they advanced economically and entered trade did they tend to spread into other districts. The exempt classes who now enter go wherever their business or professional interests call. An increasing proportion of post-exclusion migration goes direct to eastern United States. During the two years before the 1924 law went into effect 54.8 per cent of the Chinese who arrived gave one of the three Pacific Coast states as the place of future permanent residence, but for the four-year period (1925–28) since the 1924 Immigration Act only 43.8 per cent of the Chinese entries indicated Pacific Coast states as the place of future residence. The corresponding percentages for the Japanese are 52.9 and 40.4. New York is becoming an increasingly frequent destination for Chinese and Japanese of the non-immigrant classes. For the two-year period, 1923–24, 11.1 per cent of the Chinese and 5.2 per cent of the Japanese who entered the country went direct to New York state while for the four-year period since the Immigration Act, 1925–28, 13.6 per cent of the Chinese and 25.8 per cent of the Japanese arrivals gave New York as their destination. In 1929, of the 1,071 immigrant alien Chinese admitted, 412 gave California as the state of intended future permanent residence, 56 Washington, and 14 Oregon; and 106 gave New York state. Of 716 Japanese, 224 gave California, 79 Washington, 9 Oregon, and 195 New York state.[64]

[64] Compiled from Table 28, p. 78, *Annual Report of the Commissioner General of Immigration,* 1928, and similar reports for other years.

This new type of Oriental immigration, more widely distributed, is developing tolerance for itself. The merchant, professional, and student classes of the new immigration come into contact with a class of the American people which the earlier immigrants scarcely touched except in the rôle of servants or laborers. This, in conjunction with better trade contacts in the Pacific area, is tending to break down prejudice and to build up more cordial attitudes. The recent emergence of good-will groups, such as China Clubs and Japan Societies, as well as numerous trade and business agencies, indicates that organization is no longer a one-sided affair as it was during the period of agitation for restriction and exclusion. This does not imply a probable change of policy with respect to the admission of Oriental laborers, but it means that more consideration is now given to the sensibilities of Asiatics and the nations they represent.

Occupational Succession.

Partial restrictive legislation, however, protects a prospering region only temporarily. Inasmuch as migration is largely a response to economic conditions the damming of one stream usually releases another. Exclusion of the Chinese in 1882 created a vacuum which was filled by immigration from Japan. Similarly restriction of the Japanese by the Gentlemen's Agreement of 1907 and the Act of 1924 has been followed by a tide of Filipino and Mexican immigration which is now causing as much alarm as did the Chinese and Japanese immigration of previous years. Organizations formed to combat this earlier immigration are now actively opposing the influx from the Philippines and Mexico.

Occupational requirements play a large rôle in the selection of immigrants. Throughout the Pacific Coast states, as well as in Hawaii, a considerable part of the prevailing economy requires a high proportion of relatively unskilled mobile labor. The general high standard of living and the competition for individual progress effect a continuous graduation process. Few individuals are content to remain at the base of the occupation pyramid. As soon as they acquire sufficient competence and skill they seek more desirable occupations. This frequently means a move to

other districts. The Chinese who began as laborers in the mines and fields of California are now concentrating in the great cities throughout the country engaged for the most part in business and domestic service. The Japanese, who followed them, spent even less time as migratory unskilled laborers. They entered agriculture as independent cultivators, and when thwarted by alien land legislation, concentrated in cities and engaged in a wide range of business and professional enterprises. The occupations thus vacated by the earlier immigrants are being filled by Mexicans and Filipinos. This racial occupancy is well illustrated by the employment statistics for the sugar plantations of Hawaii, and the fishing industry of Alaska.

HAWAII—SUGAR PLANTATION LABORERS[65]

	1886		*1908*		*1926*	
	Number	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*
Total Workers	*14,539*	*100.0*	*46,918*	*100.0*	*46,066*	*100.0*
Native Hawaiian and Part Hawaiian	2,255	15.5	1,309	2.8	455	.9
Portuguese	3,081	21.2	3,807	8.1	1,341	2.9
Porto Rican	...	...	1,989	4.2	1,073	2.3
Spanish	...	...	750	1.6	70	.01
Other Caucasian	379	2.6	970	2.1	62	.01
Chinese	5,626	38.1	2,916	6.2	1,242	2.7
Japanese	1,949	13.4	32,771	69.8	13,603	29.5
Korean	...	...	2,125	4.5	741	1.6
Filipino	...	...	141	.3	25,848	56.1
All others	1,249	8.6	140	.3	1,631	3.5

ALASKA—FISHING INDUSTRY LABORERS[66]

	1914		*1918*		*1927*	
	Number	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*
Total Workers	*21,200*	*100.0*	*31,213*	*100.0*	*28,872*	*100.0*
Whites	11,178	52.7	17,693	56.7	16,972	58.8
Natives	4,184	19.7	5,251	16.8	4,857	16.8
Chinese	2,138	10.1	2,734	8.7	1,102	3.8
Japanese	1,318	6.2	1,509	4.8	1,353	4.7
Filipinos	...	...	1,338	4.3	2,882	9.9
Mexicans	2,382	11.2	1,709	5.4	1,373	4.7
Miscellaneous[67]	...	...	979	3.1	333	1.1

[65] Romanzo Adams, *The Education and the Economic Outlook for the Boys of Hawaii*, p. 11.

[66] Annual Reports of the Governor of Alaska.

[67] Negroes, Koreans, Porto Ricans.

II
WORLD ORDER AND COÖRDINATION

CHAPTER ONE

LIMITATION OF ARMAMENT

THE PREPARATORY COMMISSION, 1928

Disarmament vs. *Security.*

THE discussions of the League's Preparatory Commission intrusted with the preparation of a skeleton convention for the reduction and limitation of armaments have brought to light two opposing schools of thought. The "disarmament" school consists chiefly of the two greatest maritime Powers, one of which is cautious in committing itself to security measures, the other rejecting almost all share in them, and of the nation disarmed by the Peace Treaty; the "security" school, led by France, includes the continental Powers whose military systems are based on conscription, and, with the exception of Italy, these Powers are knit together by alliances with France. The well-known French thesis is that for want of an adequate organization of world security these alliances are necessary to the protection of France. Coming largely from geographical and historical sources, and representing divergent national interests, though stated in general terms, the respective views of these two schools of thought as to the evolution of international relations determine the respective approaches to the specific problem of disarmament. In this sense, as Sir George Aston says, "war belongs not to the province of arts and sciences, but to the province of social life."[1] The "security" school, speaking through the mouthpiece of France, insists that before nations reduce or limit armaments their security must be buttressed by military and economic guaranties against aggression. Assuming that the possibility of wars causes nations to arm, it concludes that only the creation of political circumstances—alliances, guaranties—will bring about disarmament. The philosophy of this school was embodied in the Treaty of Mutual Guaranty and in the Geneva Protocol of 1924, both of which were rejected by Great Britain, the first by a Labor and the second by a Conservative government.

[1] Major General Sir George Aston, *The Study of War,* p. 8.

The "disarmament" school, headed by Great Britain, applies the direct or technical method to disarmament. Although not minimizing the "security" factor, it argues that confidence in safety will go along with the disarming process: huge armaments foster the feeling of insecurity and cause wars,[2] and the solution must be sought in the immediate study of the technical means by which armaments may be reduced and limited. Both schools agree that the expectation of war breeds arms and that arms breed war, but they differ fundamentally as to where to break the procreant sequence.

Apart from the difficulties created by this fundamental difference of approach on the political side, the work of the Preparatory Commission has been checked by the divergent British and French attitudes toward the "mechanics of disarmament." These differences may be listed under four heads:

1. Interdependence of armaments vs. separate limitation of military, naval, and air armaments. The disagreement here is largely as to method.
2. Limitation of naval armaments by total tonnage vs. limitation by categories.
3. Unlimited trained land "reserves" vs. limited trained land "reserves." Here again the divergence relates to method.
4. International control or supervision of armaments vs. reliance upon the good faith of the signatories to a general disarmament convention.[3]

The French rely upon history and logic to support their contention that land, sea, and air armaments form an indissoluble scheme of defense. "I think nothing is more remarkable in the long

[2] In the nineteenth century it was argued that general armament is the road to peace. "That the organization of military strength involves provocation to war is a fallacy, which the experience of each succeeding year now refutes. The immense armaments of Europe are onerous; but nevertheless, by the mutual respect and caution they enforce, they present a cheap alternative, certainly in misery, probably in money, to the frequent devastating wars which preceded the era of general military preparation." A. T. Mahan, *Atlantic Monthly*, September, 1893. Navy men would now limit the argument, each favoring the expansion of his own navy only.

[3] Foreign Policy Association, *Information Service*, November 23, 1928; also *British White Paper* [hereinafter referred to by Command Number and date only], Cmd. 2888, 1927, pp. 4–9.

struggle with France for India," writes Vice Admiral Sir H. W. Richmond,[4] "than the regularity with which the pendulum of success swung to the French or English armies on land according to the state of the command at sea. . . . We lose command in 1746, and Madras is taken by the French. They attack Cuddalore; our command at sea is regained and the attack fails. French squadrons, detained at Mauritius for want of supplies, prevent the French from assisting our enemies on land. Command at sea permits us to send Clive to Bengal and win Plassey and conquer the Northern Circars. A hole in the command enables Lally to be reinforced by sea and take Fort St. David; but an attempt at Madras is prevented by the arrival of a British squadron. The French squadron is fought and beaten, Masulipatam is taken; the victory of Wandewash and the fall of Pondicherry follow . . ."

France, Italy, and most of the other continental Powers assert that land, sea, and air armaments, because of their interrelation in all schemes of military preparation, cannot be attacked separately in plans for the limitation of armament. France refused President Coolidge's invitation to the 1927 Naval Conference on the ground, *inter alia*, that "the limitation of naval armaments cannot be undertaken without taking into consideration the manner in which the problems of limitation of land and air armaments are proposed to be met." Italy likewise turned down the invitation because "there exists an undeniable interdependence of every type of armament of every single Power. . . ." That the French still cling to the essential interdependence of efforts for armaments limitation was manifest in M. Briand's note of acceptance of the British invitation to the London Naval Conference of January, 1930. "The principles which have always guided French foreign policy," he writes, "both with regard to the general conditions of the problem of limitation of armaments and on the subject of the special conditions of the problem of the limitation of naval armaments, have too often been defended, both during the work at Geneva and in other negotiations, to need any repetition." In the French view the naval discussions in London can only be a prelude to what must finally be done at Geneva where armaments must be

[4] *National Policy and Naval Strength*, pp. 341–342.

considered in their interdependent relation. French consent to limit its potential sea power must depend upon the relative position which the disarmament conference at Geneva now under preparation will allow it to maintain in the land and air services. Downing Street assured the French Government that the work to be done at the London Conference would form but a preliminary step to the work contemplated at Geneva.[5]

To the United States and Great Britain, on the other hand, the French contention seems a studied complication of the issues devised to defeat any clear-cut decision. The two nations which rely almost wholly on their navies for defense argue that the various classes of armaments can and should be limited separately.[6] They feel that attempts to solve armaments in their interdependent relation not only complicate the already difficult task but stand in the way of any progress. The thought of this school gave birth to the Lord Esher scheme which was destined to fail because it was too exclusively directed toward the limitation of land forces to the neglect of sea armaments.[7]

Naval Limitation.

Hitherto any discussion about the limitation of naval armaments has produced a divergence of opinion as to whether limitation should be by global tonnage or by categories, i.e., classes of fighting ships.[8] The French group has always contended that naval limitation must be by round tonnage which every nation should be free to distribute in accordance with its needs. The smaller naval Powers wish to be unrestricted in the construction of "cheap" ships which, like fortresses, can protect their homelands against even the largest fleets. A balanced fleet based on the Washington ratios is the ideal of the British Admiralty and the

[5] *New York Times,* October 8, 1929; *The Spectator,* December 21, 1929.

[6] A change by the British on this point, if they come to realize their vulnerability to air attack from Continental Europe, is not impossible. Such a realization might even swing them from the "disarmament" school to that of "security."

[7] See *Survey,* 1928, p. 504.

[8] The classes of fighting ships comprise battleships and battle cruisers (i.e., "capital ships"), cruisers, aircraft carriers, destroyers, torpedo boats, submarines, and sloops, mine sweepers and river gunboats classed with other auxiliaries as exempt vessels.

United States Navy Board; a similar balance within the respective 1.75 ratios of France and Italy would mean inferiority for them in every class. The Italian Government, an adherent of the global tonnage school, has declared that

> the states with greater financial resources have, in effect, in limitation by categories the means of creating and maintaining an absolute superiority in each of the different type of ships over those states with smaller financial resources. Whereas global tonnage, by leaving each state free to adopt and choose those types which best respond to the exigencies of its own safety, allows the less fully armed states to find in such choice and adoption a certain compensation for the superiority of the others.[9]

The United States and Great Britain, with Japan generally in agreement, take the opposite view, i.e., that naval armaments should be limited by categories or classes of ships. With far-flung possessions and large floating commerce, their contentions are similar: the strategy of the British Admiralty presupposes the seven seas as its arena of combat; American naval strategy concerns itself, in the main, with the protection of overseas commerce and shipping, the safeguarding of the Atlantic and Pacific coasts, the defense of the Panama Canal, and the protection of the Philippines; the crucial task of the Japanese navy is to keep open communications with the sources of food and raw materials for Japan and the markets on the Asiatic mainland. Loss of command of the China seas would be as serious for Japan as control of the Channel and the North Sea by an enemy would be for England, for nearly one-third of Japan's foreign trade now passes over the short haul in the China and Yellow seas,[10] and the potential development of mainland resources is still large.

The American and British delegations have attempted to link to the universal interest their own respective strategic needs for a strict and detailed definition of categories. Great Britain has declared at Geneva that while there must be some elasticity for the smaller navies, to allow France and Italy freedom in distribution

[9] *Note verbale* communicated by the Italian Government to His (Britannic) Majesty's Representative at Rome, October 6, 1928; Cmd. 3211, 1928.

[10] From Formosa, China (especially Manchuria), Korea, and Siberia.

of their naval tonnage would produce the risk that one or both of them might concentrate all its tonnage in one particularly dangerous category such as submarines, while the United States has asserted at Geneva that the French thesis[11] contains the germ of eventual competition which would not lessen international suspicion, uneasiness, or mistrust.

Trained Land Reserves.

Over trained land reserves the two schools have come to an *impasse*. The French, supported by every state whose military system is based on universal compulsory military service, refuse to listen to any limitation which would impair the universality of the system, or undermine the means for amassing trained man power that can be effectively used in time of need.[12] Conscription, though a relatively new method of raising an army, is deeply embedded in the national life of its protagonists.[13]

The maintenance of conscript armies in time of peace has an entirely different meaning for the people of the United States and Great Britain; to them trained reserves carry the same dangers as standing armies, and their aversion to standing armies dates from the reign of King John. The *alienigeni milites* and *servientes stipendarii* are condemned in Magna Carta as having been brought to England "for the injury of the realm," and long-standing constitutional limitations surround the Parliamentary grants to the British army; and the experience of the American

[11] The French draft convention submitted to the Preparatory Commission in March, 1927, contains the following article: "Each of the High Contracting Parties shall be free to distribute and allocate its total tonnage as may be best for the purposes of security and defense of its national interests." Cmd. 2888, 1927.

[12] Statistics in the *Armaments Year-Book*, 1928–29, point to a considerable preponderance of military force in the hands of France and its continental allies. While the German army is limited to 100,000, the army of France contains 617,533 men, of Poland, 253,824, of Italy, 251,270, of Czechoslovakia, 127,012, and of Yugoslavia, 107,541.

[13] "In France," says Salvador de Madariaga (*Disarmament*, p. 36), "soldiering for a couple of years in one's youth is considered as one of the duties of the citizen. The dogma of equality is as sacred to the Frenchman as that of the immaculate conception to the Catholic." The dislike of large standing armies takes the form in Switzerland, the most democratic and peaceful of all the members of the unruly family of nations, of a preference for the universal military training of youth. Neither people would admit that the "reserves" which this system produces can be discussed without reference to the social and historical background.

colonies with standing armies, in part mercenary, led Madison to declare during the debates on the Federal Constitution that a "standing army is one of the greatest mischiefs that can possibly happen." Citing the German military machine of the pre-war days, these two nations have expressed at Geneva the view that compulsory military or naval service in time of peace impregnates youth with a war psychology. At the same time, unless the conscription system is to be challenged altogether, and the British have shown no intention or desire to go so far as that, the limitations that might be imposed on it are not very considerable. If all the youth of a nation have to do military service in time of peace they will always remain trained reserves. Any limitations would naturally be confined to the preparation of the class which passes into the conscription machine and the period of service which each man spends in it.

Method of Control.

On the matter of international supervision and control of armaments, the discussions of the Preparatory Commission have brought forth far-reaching statements of national policy revealing, as on most other vital matters dealt with by the Commission, two schools of thought. How and by what means shall the execution of a disarmament agreement be controlled? The French, close to their war experience, take the view that an international commission must be intrusted with the general execution and supervision of a disarmament convention; such a convention can easily be overreached on the suspicion, whether genuinely entertained or not, that some other nation is not keeping faith. The United States, supported by Italy, holds that international engagements rest on mutual confidence and their fulfilment should not be supervised or in any way controlled; aversion to anything that savors of supergovernment is involved. To require each nation to publish the steps taken in the fulfilment of its disarmament obligations has been proposed as a solution of this controversy.

Such are the discordances which the divergent courses of the different social traditions add to the difficulties inherent in disarmament conferences. Although no tangible accomplishments

may be credited to the account of the Preparatory Commission, its work has nevertheless been of substantial value. The attitudes of the states toward disarmament, the sharp conflicts of principle presented, previously unknown or obscure, are now disclosed and at every point submitted to critical challenge and the new test of international validity. This in itself marks a new stage in international-mindedness.

THE SOVIET PROPOSALS

The absence of Russia from the international council table has been an impediment to any scheme for disarmament. Russia's neighbors argued that any curtailment of strength which they might impose upon themselves would subject them to a greater feeling of insecurity in the face of so large a standing army—562,000 men[14]—possessed by a nation that was neither a member of the League nor committed to any reduction in the size of its armaments. Russia had therefore to be included in any scheme for disarmament which the League was struggling to work out. Accordingly, the Union of Soviet Socialist Republics was invited to the Fourth Session of the Preparatory Commission. M. Litvinoff, head of the Soviet delegation, took the Commission by surprise when he announced that his Government had authorized him to place before the Commission a proposal which was accompanied by a resolution demanding the immediate working out of a draft convention embodying the following principles:

1. Dissolution of all land, sea, and air forces.
2. Destruction of all weapons, military supplies, and means of chemical warfare.
3. Scrapping of all warships.
4. Discontinuance of any force of compulsory military training.
5. Abrogation of all laws concerning military service, whether compulsory, voluntary, or by recruiting.
6. Destruction of fortresses and naval air bases.
7. Scrapping of war industry plants.
8. Abolition of military, naval, and air ministries.
9. Dissolution of general staffs, legislative prohibition of military

[14] League of Nations, *Armaments Year-Book*, 1928–29.

propaganda, and legislation making violation of any of these proposals a crime against the state.[15]

In short, the Russian delegation proposed that all the nations abolish everything from battleships to military textbooks. The plan amazed by its range; it achieved the ultimate goal of all the discussions by the shortest possible route. The *bourgeois* statesmen had to answer.

On the agenda of the Fifth Session of the Preparatory Commission the main business was accordingly the examination of the proposals submitted by the delegation of the Union of Soviet Socialist Republics. M. Litvinoff set the pitch and tempo of the debate with the theme that only the fulfilment of the Convention for Immediate, Complete and General Disarmament proposed by his government would bring general security and peace. He attacked the labors and negligible accomplishments of the Commission and the League by pointing out that

of the thirty-eight sessions which occupied themselves with the question of disarmament, no fewer than fourteen commissions and other League organs devoted over a hundred and twenty *sessions*—not sittings, mark you, but sessions—to this question of disarmament, on which one hundred and eleven resolutions have been passed by general Assemblies of the League and the Council of the League alone. Turning to the results of this vast quantity of work, the documentation of which has taken reams of paper, we are forced to the conclusion that not a single step of real importance has been taken towards the realization of disarmament.[16]

The two main questions underlying the Russian proposals were stated by M. Litvinoff to be:

1. Does the Commission agree to base its further labours on the principle of complete and general disarmament during the periods proposed by us? and
2. Is it prepared so to carry out the first stage of disarmament as to make the conduct of war, if not an absolute impossibility, of extreme difficulty in a year's time?

With the exception of the German and Turkish delegations, the

[15] League of Nations, C. 165. M. 50, 1928, IX, 325 ff. [16] *Ibid.*, p. 240.

members of the Commission stood as one man against the Russian proposals. Lord Cushendun, chief of the British delegation, undertook to answer the charges brought by M. Litvinoff against the Commission as well as to give an exhaustive analysis of the proposals for complete and general disarmament. He launched his attack by asking in what spirit the Soviet Government sent a representative to take part in the Commission's proceedings, citing an article published in *Izvestia*—the official organ of the Soviet Government—which spoke of Russian participation as nothing but an attempt to unmask the capitalist states and "to disclose the sabotage of the Soviet proposals for disarmament." Lord Cushendun openly accused the Russians of coming to Geneva not to give any genuine assistance in the work of disarmament, but from an ulterior motive, intimating in no uncertain terms that that motive was to remove obstacles in the way of a world revolution in the capitalist states.

In introducing his disarmament scheme, M. Litvinoff asked for special support from the United States which was then publicly making a proposal for the renunciation of war as an instrument of national policy. "Since armed forces have no other raison d'etre but the conduct of war, and since the prohibition of war would make them quite superfluous," contended M. Litvinoff, "it would appear that consistency and logic must dictate to the Government concerned the support of our proposal." Mr. Gibson, showing less vehemence than Lord Cushendun, replied that it was precisely on the grounds of sincerity, consistency, and logic that his Government supported the idea of a multilateral pact renouncing war as an instrument of policy. The United States could not support the drastic proposals for complete and immediate disarmament which it did not believe were calculated to achieve their avowed purpose. "Any other attitude on the part of my Government," said Mr. Gibson, "would be lacking in sincerity, consistency and logic, for my Government believes in one project and disbelieves in another."[17] Neither the British nor the American speaker undertook to explain definitely the logical connection he saw between the Russian proposals and Russian insincerity.

[17] League of Nations, C. 165. M. 50, 1928, IX, 258.

Other delegates pointed out in a more factual vein the futility of suggesting complete disarmament in a world that is so little ready to accept it. They declared that the Russian principle ran counter to the Covenant of the League, that the Commission can do fruitful work only by accepting as its basis the principle of the reduction of armaments, and that progress toward reduction is intimately tied up with the feeling of security which must precede disarmament.

Foreseeing the fate of his first draft for complete disarmament and taking his cue from the progress of the debate, M. Litvinoff brought in a second draft by which he sought to effect a partial and graduated reduction of armaments based on the principles declared by the speakers to underlie the work of the Preparatory Commission. In this draft[18] states are divided into four groups according to the size of their military armaments. States in the first group are to reduce their armed forces by one-third; those in the second group by one-third; those in the third group by one-fourth; those in the fourth are the states whose armaments are already limited by the peace treaties and no provisions are therefore made for them. The same principle is applied to naval armaments, with a division of the states into two groups. Air and chemical armaments are prohibited. Defense budgets are to be reduced in proportion to the reduction of land, air, and naval forces. A permanent commission of international control consisting of an equal number of legislative and trade-union representatives is set up to supervise the execution of the convention.

A comparison of the two Russian proposals reveals that the second is infinitely more practical than the first. It has the merits of Lord Esher's plan and none of its defects. It recognizes the theory of interdependence of armaments, carrying out reduction on proportional principles modified to favor less protected and smaller states. It establishes a coefficient for that proportional reduction.[19] This proposal, less visionary and more conciliatory than the first, received no such critical attention; certainly a challenge on the ground of ulterior motive would have been more difficult. But it

[18] *Ibid.*, p. 347.

[19] *Ibid.*, C. 195. M. 74, 1929, IX, 23.

used the principle of proportionality, taking as a basis the size of armaments as they exist at present, or the *status quo*, without taking into consideration the geographical situation and special circumstances of each country. The political factors had the upper hand, and the Russian draft proposals met a sudden death. Armament is frequently an instrument of policy in the struggle for relative power and so may disarmament be, and Lord Cushendun derided the Soviet proposal as an attempt to accomplish the Soviet purpose while maintaining Russian hostility to the family of nations.

THE ANGLO-FRENCH NAVAL "COMPROMISE" OF 1928

The Nature of the Bargain.

The Anglo-French naval understanding of 1928 arose out of a sharp conflict of principle over the limitation of naval armaments which was revealed in the draft conventions submitted to the Preparatory Commission by Great Britain and France respectively;[20] one of those conflicts, as we have noted, which has brought the work of the Commission to a standstill. To grasp the "understanding," it is necessary to examine the precise nature of the conflict.

The draft convention submitted to the Commission by Great Britain in March, 1927, advocated the retention of the principle put forth at the Washington Naval Conference of 1921–22, namely, the limitation of ships by categories, as well as the limitation of the number of ships in the class and the caliber of guns carried. Not to be outdone by the British, M. Paul-Boncour, the French representative, circulated an alternative draft to the members of the Commission based on limitation by global tonnage total: within that total each nation was left free to build as many or as few of any class of warship it pleased, subject to the preservation of the treaty obligations entered into at Washington with regard to battleships, aircraft carriers, and cruisers. The United States and Japan supported the British draft; Italy, with several other Powers, the French draft.

[20] Cmd. 2888, 1927, pp. 10, 13.

The French proposal, permitting a nation to concentrate its allotted tonnage on some particular class of warship, such as commerce destroyers, threatened the complete supremacy of the larger naval Powers, Great Britain especially. Unless they could be the stronger in all branches, circumstances might make them the weaker at a given place or moment. The British delegate pointed out that such a system of limitation enabled one nation to obtain an unforeseen advantage over a rival, or start a limited competition in naval armaments. Recognizing the reasonableness of this argument, the French delegate suggested a compromise proposal to the effect that each nation should state at the outset of the period governed by the treaty the amount of tonnage it intended to allot to each class of warship. The plan even as modified was still felt to be unsound, for the first proposal would lead to open competition and the modified proposal to agreed competition.

While the Commission was struggling to effect a compromise, important conversations[21] were taking place between Sir Austen Chamberlain and M. Briand[22] and their respective naval experts with a view to accommodating military and naval oppositions.

> Public opinion realized that concessions were necessary from all parties for a general settlement to be reached, and if he [Sir Austen] could point to a concession by the French in naval matters, it would probably acquiesce in his yielding a point on the military side. On the other hand, we [the British] could not abandon the British standpoint on the question of army reserves unless we could justify this concession made to us in the naval sphere.[23]

[21] Count Clauzel, the French delegate to the League's Preparatory Commission, announced on March 22, 1928, at one of the public sessions of the Commission that the military and naval experts have entered into useful "conversations dealing with the treatment of some of these delicate questions to which I have alluded and for which only partial solutions have been found. . . . We are far advanced along the path and there is no occasion to anticipate any very long delay before we arrive at appreciable results." Mr. Hugh Gibson, the American delegate, who had been encouraging direct negotiations between the various governments, was present when the French delegate divulged that conversations were taking place between the British and French experts. The assertion on the part of some American newspapers that the United States Government was not apprised of the matter is unfounded.

[22] Cmd. 3211, 1928, pp. 17, 22–24.

[23] *Ibid.*, p. 17.

The British Foreign Secretary placed before M. Briand a draft drawn up by the Admiralty which proposed that limitation should be effected by classes as follows:

1. Capital ships;
2. Aircraft carriers;
3. Cruisers between 10,000 and 7,000 tons;
4. Surface vessels under 7,000 tons;
5. Submarines; and
6. Small vessels exempt from limitations.

By this proposal, states would be allowed to transfer tonnage from a higher category into a lower category in all classes, excluding 1 and 2, subject to a limitation of the proportionate total tonnage which might be utilized for submarines; states with a total tonnage, including class 6, not exceeding 80,000 tons to be subject to no classification.[24]

With these proposals as a basis, the conversations between the British and French governments proceeded. Although the other naval Powers were not apprised of the exact nature of the "delicate questions" which were forming the subject matter, they were nevertheless informed by Count Clauzel and Lord Cushendun at a public sitting of the Preparatory Commission that conversations were taking place.

On July 30, 1928, in reply to a question as to what had been going on in the Preparatory Commission, Sir Austen Chamberlain announced in the House of Commons that the conversations which had been proceeding between Great Britain and France had been successful, adding,

> I am about to communicate to the other principal naval Powers the compromise at which we have arrived, with the hope that it may be acceptable to them also, and that thus a great obstacle to progress will have been removed and a step made in advance. . . . I imagine the first serious discussion on them will probably take place in the Disarmament Commission itself.[25]

The prediction fell wide of the mark, for the French press immediately began an intensive campaign of interpretation. The un-

[24] Cmd. 3211, 1928, p. 17.
[25] London *Times*, July 31, 1928; Cmd. 3211, 1928, pp. 28–29.

derstanding was represented in Paris as the formation of another *entente cordiale*, more comprehensive in its nature than the pre-war *Entente*. Jules Sauerwein, foreign editor of the Paris *Matin*, commenting on the announcement in the House of Commons, wrote:

> Probably no note of agreement was ever written, and it was certainly best that it should not be. One can make a treaty or a contract, but an entente of this kind is best preserved in spirit and fact by the word to each other of two men who see a common interest.[26]

The world was aware that the diplomatic experience of ten years prior to the World War had brought home to both nations the realization that their political geography demands a *modus vivendi;* not one that must take the form of a document called an Anglo-French Treaty, but rather of a spirit that presupposes that an Anglo-French *entente* is a "discovery," the discovery by two countries that in spite of their national differences it is to their common benefit to consult and to coöperate for the protection of their essential interests at home and abroad. The economic facts are as inescapable as the geographical. One-third of Britain's trade is carried on with Europe, and a good deal of this over the water separating England and France; moreover the Empire's communications lie along French paths. The Mediterranean controls the approaches to Egypt, India, and the Far East; and as long as Great Britain prizes access to the Mediterranean and control of the Suez Canal as vital arteries in its imperial system, it can ill afford to jeopardize even the tacit coöperation of France.

No longer would the British Admiralty need to fear the invasion of London by French cruisers, submarines, or airplanes. The two fleets from now on were to be "associated"—a term which the *Temps* borrowed from the Wilsonian era—in common action. No longer was England to object to the French thesis about "land effectives"; France was to be given a free hand in the continued occupation of the Rhineland.

Since the world was allowed to speculate, it naturally exagger-

[26] Quoted by J. T. Gerould in *Current History,* November, 1928, p. 306.

ated; yet official silence persisted. And when, on August 30, in order to dispel the rumors which had been multiplying for a month, Lord Cushendun and the French Minister of Marine gave interviews to the press, their statements were more remarkable for what they denied than for what they revealed. Lord Cushendun denied that the agreement contained secret clauses or any arrangement as to an alliance or coöperation of the navies, or any agreed policy between the British and the French; furthermore, he stated that the arrangement arrived at with France was "no agreement in the ordinary sense," but of "a kind for which diplomacy as yet has no verbal description." The post-war world had become familiar with such a diplomacy through the revelations[27] of the circumstances surrounding the Anglo-French *Entente* of 1904; the same indefiniteness implied by Lord Cushendun had characterized the "conversations"[28]—as Sir Edward Grey euphemistically termed them—which were clandestinely carried on by the French and British military and naval strategists under the aegis of their *entente*. For this reason Lord Cushendun's assurances sounded more than unconvincing; they were positively disquieting.

The foreign offices of Washington, Rome, and Berlin manifested considerable apprehension as to the scope and purpose of the accord. Official Washington feared that the understanding had taken a form favorable to the type of cruiser which would strengthen the British navy and weaken its own. Italy, insisting on an army and navy equal to any other on the Continent, feared lest its demand for equality with France had gone by the board. Germany feared lest Great Britain had paid for sea concessions the price of withdrawing objections to limitations on the system of training reserves. The secretive nature of its making was criticized equally with the compromise itself.

The text of the agreement, which leaked out[29] a month before its publication and was officially made public on October 22, contained the following short but important articles:

[27] See S. B. Fay, *Origins of the World War,* I, 92.
[28] Sir Edward Grey, *Twenty-five Years,* I, 76.
[29] *New York American,* September 21, 1928.

Limitations which the Disarmament Conference will have to determine will deal with four classes of warships:

1. Capital ships, i.e. ships of over 10,000 tons or with guns of more than 8-inch calibre.

2. Aircraft carriers of over 10,000 tons.

3. Surface vessels of or below 10,000 tons armed with guns of more than 7-inch and up to 8-inch calibre.

4. Ocean-going submarines, i.e. over 600 tons.

The Washington Treaty regulates limitations in classes 1 and 2, and the Disarmament Conference will only have to consider the method of extending these limitations to Powers non-signatory to this treaty. As regards classes 3 and 4, the final Disarmament Conference will fix a maximum tonnage applicable to all Powers which no Power will be allowed to exceed for the total of vessels in each of these respective categories during the period covered by the convention. Within this maximum limit each Power will at the final conference indicate for each of these categories the tonnage they propose to reach and which they undertake not to exceed during the period covered by the convention.[30]

As between Great Britain and France the essence of the proposal was that (a) the French Government surrendered its contention for limitation by global tonnage in favor of the Anglo-American contention for limitation by categories of classes; (b) by negotiating in regard to naval armaments alone, France abandoned the theory it had stoutly maintained at Geneva that naval, land, and air armaments were interdependent and must be dealt with as one problem. These French surrenders of position, running merely to the "mechanics" of disarmament, are less important than the agreement on policy.

The limitation of only such surface vessels as are restricted in class 3 of the agreement, that is, cruisers of or below 10,000 tons armed with guns of more than 6-inch and up to 8-inch caliber, is, in essence, another way of stating that only larger cruisers—those above 7,500 tons and armed with 8-inch guns—should be limited. The naval experts who delimited the figures were aware that cruisers of 7,500 tons and below usually mounted 6-inch guns, while vessels above 7,500 tons and below 10,000 tons usually

[30] Cmd. 3211, 1928, pp. 26–27.

mounted guns of more than 6-inch and as high as 8-inch caliber. The British Government thus had French support for a policy which it failed to realize at the Three Power Naval Conference at Geneva, namely, dividing cruisers into two classes, placing no restriction on the type peculiarly suited to its needs, and imposing a restriction on the type demanded by United States naval experts.

Class 4 of the accord gave something to France, namely, an unlimited hand in building submarines of 600 tons or under, while submarines over 600 tons, i.e., ocean-going submarines, were to be limited. This division rests on the French assumption that submarines of 600 tons or under are defensive weapons, whereas those over 600 tons are offensive.[31] The consensus of opinion among most naval strategists is that, aside from the difference in cruising radius, the smaller submarines are formidable combatants and as destructive as the larger. Both carry the same torpedoes and both can be mounted with guns of 5-inch caliber.

The correspondence leading to the naval understanding revealed the interesting and far-reaching request of the French Government—to which the British Government acceded—that the same maximum tonnage for submarines and cruisers be fixed for all the great naval Powers. The French advanced the reason that such a system would avoid the possibility of engaging in delicate discussions concerning the relative needs and importance of different navies.[32] By acceding to this request, all the great naval Powers—Great Britain, United States, Japan, France, and Italy —would have equality in cruisers and submarines, and thus the "arrangement," the French Government contended,

> would have the effect of avoiding at Geneva awkward discussions more likely to increase the existing mistrust between the Powers than to create the atmosphere of mutual confidence essential to a general limitation of armaments.

But this equality is only theoretical, a sort of make-believe, for the compromise provided that the disarmament conference

[31] Most of the German submarines used in the War were under 600 tons each.
[32] Cmd. 3211, 1928, p. 25.

would record, below the theoretical maximum tonnage allowed, the actual figures which in practice the High Contracting Parties would undertake not to exceed for the duration of the Convention.[33]

The Understanding as to Land Forces.

No mention concerning the limitation of land forces was made in the agreement, and in this respect the British Foreign Secretary was correct when, replying to a question in the House of Commons as to whether the compromise dealt with purely naval matters, he said:

> Yes. The proposals I want to communicate are dealing with the disagreements that arise, in which, of course, we take a particular interest. . . . Naval questions are the ones that interest us most, and it is upon them that we have been seeking to reconcile our differences, and this is the method of making progress.

But there was an understanding with the French Government—an understanding which the Foreign Secretary failed to reveal in his House of Commons declaration—made before the text of the naval agreement was actually drawn up—that if the French Government could meet the British Government's views on naval limitation the latter would be prepared to withdraw its opposition to the French contention that "trained reserves" be left out of the reckoning. The reasons for the bargain are well set forth in a telegram sent to the British Embassy in Washington:

> His Majesty's Government have reluctantly reached the conclusions that it will be impossible to move the French and the majority of other European Governments from the attitude which they have consistently adopted on this question and that, in present condition, no further progress in regard to land disarmament will be possible as long as this stumbling-block remains in the way. They do not, therefore, propose to offer any further resistance to the French contention at the present time. It is not believed that any American interest can be prejudiced by the withdrawal of his Majesty's Government's opposition on the military reservist question. Any agreement on land disarmament, even if it is in our view not entirely satisfactory in the matter of military reservists, would represent an impor-

[33] *Ibid.*

tant stage in the general progress of disarmament and would be far better than no agreement at all. . . .

This *quid pro quo* formed the basis of the entire Anglo-French project. The division of partnership functions between the largest military Power and the largest naval Power would have established French military hegemony on the continent of Europe, and, relieving the Conservative statesman's mind of the burden of continental complexities, would have left Great Britain free to concentrate its attention upon imperial problems. In some such way must British participation in such an understanding at such a juncture be explained.

THE RECEPTION OF THE COMPROMISE

That the British Foreign Secretary had considered proceeding without taking the position of the United States into account is revealed not only by the character of the negotiations but still more so by the pointed way in which the French Government called this matter to his attention. "Temperamentally Sir Austen Chamberlain apparently preferred conversations with M. Briand to negotiations with the authorities in Washington."[34] In a note of July 20, 1928, M. Briand stated that

it will not have escaped the notice of the British Government that the agreement so earnestly desired on all sides can only bear fruit if the United States Government, in particular, agree to accept it. M. Briand will be glad to know whether his Majesty's Government consider it advisable to take the necessary steps to this end at Washington.

Accordingly, on July 30, 1928, the British Government instructed its representatives at Washington, Tokyo, and Rome to communicate to the respective governments to which they were accredited the terms of the compromise. Preliminary to recording the effect produced by this Anglo-French understanding on opinion elsewhere it is important to note that M. Briand, eleven times Premier of France, has been Minister of Foreign Affairs in twelve governments; he represents French opinion on foreign

[34] Allen W. Dulles in *Foreign Affairs*, January, 1929.

policy with a fidelity which can rarely be paralleled by any British minister. Sir Austen, on the other hand, was the spokesman for conservative ideas of a Conservative government, and both the wisdom and representative character of his policy in this particular matter were attacked with the utmost vehemence in the press and at the polls, not only by the opposition parties but also by many of those non-partisan publicists whose opinions mold or reflect the vote that carries elections. Thus was the line of cleavage between France and Great Britain more sharply defined.

Washington.

The United States Government promptly rejected the proposals and stated that "no useful purpose would be served" by accepting the Franco-British proposals as a basis of discussion. The agreement, placing no limitation whatsoever on 6-inch gun cruisers or destroyers, or submarines of 600 tons or less, imposed restrictions only on those types "peculiarly suited to the needs of the United States," i.e., cruisers of or below 10,000 tons armed with guns of more than 6-inch and up to 8-inch caliber. Such a limitation the American note declared would add enormously to the comparative offensive power of a nation possessing a large merchant marine on which preparation may be made in times of peace for mounting 6-inch guns. A significant passage followed.

> At the Three Power Conference at Geneva in 1927[35] the British delegation proposed that cruisers be thus divided into two classes: Those carrying 8-inch guns, and those carrying guns of 6 inches or less in calibre. They proposed, further, that 8-inch gun cruisers be limited to a small number or to a small tonnage limitation, and that the smaller class of cruisers carrying 6-inch guns or less be permitted a much larger total tonnage, or, what amounts to the same thing, to a very large number of cruisers of this class. The limitation proposed by the British delegation on this smaller class of cruisers was so high that the American delegation considered it in effect no limitation at all. The same proposal is now presented in a new and even more objectionable form, which still limits large cruisers, which are suitable

[35] See *Survey*, 1928.

to American needs, but frankly placed no limitation whatever on cruisers carrying guns of 6 inches or less in calibre. This proposal is obviously incompatible with the American position at the Three Power Conference. It is even more unacceptable than the proposal put forward by the British delegation at that conference, not only because it puts the United States at a decided disadvantage, but also because it discards altogether the principle of limitation as applied to important types of vessels.[36]

With respect to submarine tonnage the United States declared its unwillingness to accept as a distinct class of submarines those of over 600 tons, leaving all submarines of 600 tons or under unlimited. The latter were declared formidable combatant vessels, carrying the same torpedoes as are carried by larger submarines and of equal destructive force within the radius of their operation, and capable also of being armed with guns of 5-inch caliber. In this connection the reply read:

> The United States would gladly, in conjunction with all the nations of the world, abolish the submarine altogether. If, however, submarines must be continued as instruments of naval warfare, it is the belief of the American Government that they should be limited to a reasonable tonnage or number.

The general objections which the United States made to the Anglo-French proposal were that limitation upon construction of certain types of war vessels did not stop competition in other types. The Washington Naval Conference was referred to as bearing out the American contention. Had that conference accepted Mr. Hughes's original plan which contemplated the limitation of cruisers and submarines as well as capital ships, the resulting recrudescence of naval competition would have been avoided.[37] The United States looked upon the new proposals as tending to defeat the primary objective of any disarmament conference for the reduction or the limitation of armament in that it would not elimi-

[36] Cmd. 3211, 1928, pp. 35–36.

[37] Japan seems to have forced the pace in naval expansion in the early post-Washington Conference period with France close on its heels. In 1922–23, Japan laid down six cruisers, fifteen destroyers, and eleven submarines; France, three cruisers, eighteen destroyers, and eleven submarines; Great Britain, one cruiser; Italy, four destroyers; the United States, no ships whatever.

nate competition or effect the desired economy. If Great Britain and France desired to enter into an agreement which they thought would be to their advantage and in the interest of limitation of armament, the United States declared that they were at perfect liberty to do so; but naturally such an agreement could not be applied to the United States without its consent. The United States' reply, however, left the door open for further negotiation. It suggested a basis of limitation which would permit a nation to vary the percentage of tonnage in classes within the total tonnage. The agreed percentage could be varied so that "if there was an increase in one class of vessels it should be deducted from the tonnage to be used in other classes."

President Coolidge in his Armistice Day, November 11, 1928, speech before the American Legion said, referring to the Anglo-French Compromise:

> During last summer France and England made a tentative offer which would limit the kinds of cruisers and submarines adapted to their use. The United States of course refused to accept this offer. Had we not done so, the French Army and the British Navy would be so near unlimited that the principle of limitation would be virtually abandoned.

Much less temperate was the commentary in the American press, and the United States navy's agitation for fifteen new cruisers was a concrete reply to the Franco-British proposals; the general outcry in the United States against those proposals greatly weakened the opposition to the cruiser bill.[38]

Tokyo.

The Japanese reply, dated September 29, was brief and to the point. The Government expressed "its concurrence to the purport of the present agreement," adding, however, that since the

> maximum tonnage of large cruisers and submarines to be applied indiscriminately to all countries must, from the point of view of national security and of alleviation of the burden on the people, be satisfactory to various countries whose circumstances are different, it

[38] For an account of the adoption of the bill, see pp. 371 ff.

considers the agreement in question needs to be most carefully drawn up and just.

Berlin.

The German Government was alarmed by the news of the naval compromise to which the British Foreign Secretary referred in the House of Commons, and feared that some concession on the part of Great Britain in regard to the limitation of land forces was the price paid for the agreement. Considerable color was lent to this view by numerous articles in the French press which attributed far-reaching importance to the bargain. In the matter of limitation of land forces Germany was vitally interested, but as this accord was, on the surface, a naval matter the governments concerned did not feel obliged to submit the proposal for German approval. Nevertheless the British Ambassador at Berlin asked for instructions. He was authorized to inform the Secretary of State of the Reich that the text of the compromise referred exclusively to naval limitation, but there was an understanding with the French Government that if it could meet the British Government on the questions of naval limitation the latter would be prepared to withdraw its opposition to trained reserves. Thus Germany's fears were realized.

Rome.

The Italian Government's reception of the proposals was more discouraging to the French than to the British, for the reasons stated in the rejection were the very ones which the French had been in the habit of stating so eloquently at Geneva, namely, that there could be no separate discussion of the naval problem, but only one which considered limitation in the broadest and most logical manner from its three aspects, military, naval, and aerial. Furthermore, the Italian Government repeated the stand it had taken ever since the Washington Conference that as regards limitation generally, it was "disposed *a priori* to accept as the limit of its own armaments any figures, however low they might be," provided that they were not exceeded by any other European continental Power, meaning, of course, France. This persistent de-

mand for parity with France had already emerged at the Washington Conference; there Italy made good its claim for equality in naval strength with France, equality at least in capital ships; the economic plight of France and the deteriorated condition of its navy in 1921–22 conspiring to bring about what the French have termed the "décapitation" of their navy. Ever since France and Italy were given the same "*chiffres de prestige*," French diplomacy has been directed toward breaking that equality and Italian toward maintaining it.

The special exigencies of national defense demand that Italy seek the principle of global rather than of category limitation. Italy has only three lines of communication with the rest of the world, three channels for its supplies: Port Suez, Gibraltar, the Dardanelles. With a long coast line, heavily populated cities, and vital centers either on its coast or within a short distance, Italy's defense needs must depend in large measure on the pace set by its strongest Mediterranean rival. Global tonnage, by leaving Italy free to adopt those types which best respond to the exigencies of its own safety, would allow it within its budgetary capacity to outdo France, perhaps even the British Mediterranean fleet, in the types to which it might throw its whole tonnage allowance.

The Italian note ended by suggesting that the five signatory Powers of the Washington Treaty agree to postpone until 1936 the construction of those capital ships which the Treaty would allow them to lay down during the period 1931–36. The adoption of such a modification, the note argued, would provide the world with a tangible proof of the pacific sentiments of the five greatest naval Powers; at the same time it would leave the fleets of the signatory Powers in the same relative situation as that laid down by the Treaty of Washington for 1931.

THE FATE OF THE ACCORD

That the compromise would bear no fruit unless the United States in particular agreed to accept it was obvious from the moment it was entered into. No effort was made to explain why Great Britain should have supposed that the United States would accept a proposal more objectionable to it than the one made by

the British delegation at the Geneva Naval Conference. In view of the American reply and the general condemnation of the British press Lord Cushendun announced in the House of Lords on November 7, 1928, that the Anglo-French Compromise as a specific proposal was dead. But the announcement of Lord Cushendun still left the question open whether the Anglo-French Compromise was a set of proposals to be submitted to the other Powers for their consideration or whether it was to remain the basis of a working *entente* which was to continue even if the specific proposals should not be accepted by the other Powers, for the French Government suggested that

> whatever the result, and even should this hope (i.e. getting the approval of the United States to the compromise) prove illusory, the two Governments would none the less be under the urgent obligation to concert either to ensure success by other means or to adopt a common policy so as to deal with the difficulties which would inevitably arise from a check to the work of the Preparatory Commission.[39]

In view of the fact that this pregnant suggestion was left unanswered by the British Government, Lord Thomson asked in the House of Lords[40] whether silence meant consent. Such a suggestion, said Lord Thomson, required an answer.

> No answer was sent to it, for a very good reason [said Lord Cushendun]. It is a very disagreeable thing among friends, whether they be nations or ladies [he went on to say] to be obliged to repel advances, and his Majesty's Government felt that while that particular in the Note was vaguely expressed and did not make any specific proposal, it might appear to suggest something in the nature of a closer political alliance rather than a mere attitude of friendliness or entente which existed between the two countries.

If the compromise had not been completely withdrawn the vagueness on this point would have resulted, whenever the French found that the British did not believe there was a binding agreement, in a charge of deliberate bad faith on the part of Great Britain;

[39] Cmd. 3211, 1928, pp. 25–26.

[40] London *Times*, November 8, 1928.

Lord Cushendun ought to know what happens when either a nation or a lady makes clear-cut demands upon an ambiguous relation.

THE CRUISER BILL

THE most striking sequel to the failure of the Anglo-French naval understanding was the impetus it gave Congress to vote the bill authorizing the construction of fifteen cruisers and one aircraft carrier. The history of this legislation goes back to the failure of the Three Power Naval Conference at Geneva.

Immediately after the breakdown at Geneva, notwithstanding President Coolidge's announcement that "the failure to agree should not cause us to build either more or less than we otherwise should,"[41] Curtis D. Wilbur, Secretary of the Navy, submitted to Congress on November 14 the following bill:

> For the purpose of further increasing the naval establishment of the United States the President of the United States is hereby authorized to undertake the construction of the following vessels:
>
> Twenty-five light cruisers; nine destroyer leaders; thirty-two submarines, and five aircraft carriers;
>
> Section 2. The construction of light cruisers and aircraft carriers herein authorized shall be subject to the limitations prescribed by the treaty limiting naval armaments ratified August 17, 1923.
>
> Section 3. In the event of an international conference for the limitation of naval armaments the President is hereby empowered, in his discretion, to suspend, in whole or in part, any construction authorized by this act.

In a letter accompanying the draft bill, Secretary Wilbur estimated the aggregate cost of this new naval program at $725,000,000, and relying upon authority rather than upon logic flattered the taxpayers with the additional statement that the draft bill was not in conflict with President Coolidge's desire for economy. While the Secretary of the Navy was asking Congress for this huge expenditure, Mr. Bridgeman, First Lord of the Admiralty, announced in the House of Commons that the British Government had decided to drop two out of the three cruisers which, under the existing naval program, were scheduled to be laid down

[41] *United States Daily*, November 19, 1927.

in 1927. In American naval circles, however, this British announcement was regarded as a belated gesture; the sponsors of a big navy were determined to consummate the "victory" they had gained at Geneva.

The proposed bill "fixed no time for the beginning or completion of the ships therein named," Mr. Wilbur pointed out to the House Committee on Naval Affairs. This he said was "in accordance with the desire of both the President and the Navy Department." On being asked when the Department intended to complete the proposed program, the Secretary of the Navy replied that the provisions of the bill would be carried out within five years, at the end of which time it would be supplemented by a continuous building and replacement program spread over twenty-year cycles.[42] The House Committee on Naval Affairs outdid the authors of the bill by inserting a fixed time limit of five years for laying down and eight years for completing the vessels, and it struck out the clause giving the President discretion to suspend construction in the events contemplated under Section 3.

Senator Borah opened the attack on the bill in the Senate by denouncing it as "sheer madness" which would lead to "immediate and inevitable war"—a Punic war involving the cruiser in place of the trireme. American public opinion was aroused and began to express itself through the medium of influential individuals, and organizations like the Society of Friends, Federal Council of Churches, the World Alliance for International Friendship, and the Church Peace Union. The London *Times*,[43] editorially, declared that the

> Government of the United States . . . is now definitely embarked on an armaments program that is in fact competitive, is by implication provocative, and to judge by the number of hints, pointers, and allusions, is at least designed partly with the object of making a strong impression on British public opinion.

Under the pressure of public opinion, the Administration was obliged to modify its original proposals. In place of the Butler Construction Bill introduced in the House, December 14, 1927,

[42] *United States Daily*, January 13, 1928.
[43] December 17, 1927.

which contemplated the building of seventy-one vessels at a cost of $725,000,000, a new bill was introduced calling for the construction of fifteen ten-thousand ton cruisers and one aircraft carrier at a total cost of $274,000,000. Under this bill[44] the President was empowered to suspend construction in the event of an "international agreement for the further limitation of naval armament, to which the United States is signatory." A time limit requiring the President to undertake construction of fifteen cruisers within three years, and an aircraft carrier prior to June 30, 1930, was inserted over the President's objection. The Navy Cruiser Bill was reported to the House on March 3, 1928, and passed on March 17 by a vote of 287 to 58. The anger which had led to the introduction of the original bill in the Lower House had subsided and counsels of moderation prevailed. Had the original bill become law, it would have appeared nothing less than a challenge to Great Britain. The bill, pruned down from seventy-one ships costing $725,000,000 to sixteen ships costing $274,000,000, was more like a "retort courteous" to the British attitude than a "countercheck quarrelsome." In this form the bill was reported to the Senate on May 3, 1928; it was left to stand over until the next session.

Meanwhile two international events of great significance occurred. While negotiating with Secretary Kellogg for a multilateral treaty for the renunciation of war, which was signed at Paris on August 27, 1928, M. Briand was at the same time concluding with Sir Austen Chamberlain the so-called Anglo-French Naval Compromise. The British and French governments showed as much logical consistency in combining negotiations for the Pact of Paris and the Naval Compromise as President Coolidge in urging the Senate to give its advice and consent to the Pact of Paris while publicly approving the action of the lower House which voted the construction of fifteen cruisers and one aircraft carrier. The great nations are wont to advance warily into the future, an olive branch in the left hand and a sword in the right.

[44] The original Butler Bill contemplated suspension of building "in the event of an international conference for the limitation of naval armaments," whereas the bill as enacted allows suspension only in case of an agreement to which the United States is signatory.

The closeness which curtained the Anglo-French Naval Compromise and the nature of the proposals together produced on American public opinion an effect which weakened the opposition to the cruiser bill; President Coolidge also adopted an unusually vigorous tone in his Armistice Day address[45] which produced an unpleasant impression in Europe. Referring to the naval understanding he said: "It no doubt has some significance that foreign governments made agreements limiting that class of combat vessels in which we were superior but refused limitation in the class in which they were superior." His annual message to Congress urged immediate action on the Cruiser Bill.

The Senate, having given its advice and consent to the Pact of Paris on January 15, turned its attention to a consideration of the Cruiser Bill. Senator Borah lifted the debate out of the vague region of general "defense" and projected it into the realm of reality when he declared that "we are on the eve of a naval race with Great Britain. The situation is not dissimilar to the situation existing between Germany and Great Britain from 1905 to 1914."[46] His solution for the difficulty was along the traditional American line which assumes a belligerent Great Britain and a neutral America, and the amendment he proposed called for an agreement on neutral rights.

> If we cannot have an agreement [he declared] with reference to the use of the sea, if our commerce depends for its protection entirely upon the navy, if England stays with the proposition that she proposes to dominate the sea, we will build a navy superior to England's undoubtedly . . . but . . . before . . . we start on a naval race, we ought to make every effort possible, first, to bring about a complete understanding with the naval Powers with reference to naval building, and secondly a complete understanding with reference to the freedom of the seas.

Senator Borah defined "freedom of the seas" as the

> right of neutral nations to carry their commerce as freely in time of war as in time of peace except when they carry actual munitions of

[45] *New York Times*, November 12, 1928.
[46] *Congressional Record*, 70th Congress, 2d Sess., p. 2179.

war or when they actually seek to break a blockade. But the blockade must be a blockade sufficient to prevent the passage of ships and not merely a paper blockade. But as to all legitimate commerce, outside of the actual munitions of war and outside of speeding to a particular port where it is blockaded, there ought not to be any interference with the neutral powers. A minimum of belligerent rights and a maximum of neutral rights.[47]

He further objected to the time-limit clause for the construction of the ships on the ground that it would hamper freedom to negotiate with reference to disarmament and "freedom of the seas" during the coming year or two, and urged Senator Hale to strike it out; but the Senate, by a vote of 54 to 28, rejected a motion to eliminate the time-limit clause,[48] the Senators who voted against the motion contending that it was better to have "steel cruisers than paper ones." The great majority of the Senators wanted either cruisers or naval-limitation conferences; the real issue was over the question which should come first. Those who contended that cruisers should come first asserted that "freedom of the seas" is possible to those who have the power to claim it, and that power could be acquired if the United States matched Great Britain in cruiser strength before making its demand. These Senators argued that when the United States was superior in battleships, Great Britain agreed to limit them; but as long as the United States was inferior in cruisers, Great Britain blocked their limitation. A large cruiser fleet would give the United States more with which to trade and thus bring about a limitation agreement.

Those who opposed the bill deprecated the millions to be spent on cruisers which "will be junk from the moment they are launched and be of little or no value in case of war." Senator Brookhart declared that the building of these ships "is insincere," and "a preparation for war itself when we have denounced and condemned war by the peace treaty."

[47] *Ibid.*, p. 2182. Many writers on international law will refuse to accept this definition, and in such a connection "minimum" and "maximum" are bound to be arbitrary terms.

[48] *Ibid.*, p. 2762.

The cruiser bill passed the Senate, February 5, 1929, by a vote of 68 to 12, and became law when President Coolidge signed it on the 13th. The principal clauses of the bill provide that

the President of the United States is hereby authorized to undertake prior to July 1, 1931, the construction of fifteen light cruisers and one aircraft carrier according to the following program:

(a) Five light cruisers during each of the fiscal years ending June 30, 1929, 1930 and 1931, to cost, including armor and armament, not to exceed $17,000,000 each.

(b) One aircraft carrier prior to June 30, 1930, to cost, including armor and armament, not to exceed $19,000,000 . . .

Sec. 4. In the event of an international agreement, which the President is requested to encourage, for the further limitation of naval armament, to which the United States is signatory, the President is hereby authorized and empowered to suspend in whole or in part any of the naval construction authorized under this Act.

Sec. 5. That the Congress favors a treaty or treaties with all of the principal maritime nations regulating the conduct of belligerents and neutrals in war at sea, including the inviolability of private property thereon:

That such treaties be negotiated, if practically possible, prior to the meeting of the conference on the limitation of armaments in 1931.

THE HOOVER PROPOSALS: A NEW PHASE

The German Demand.

The growing impatience of the world over the fruitless efforts of the Preparatory Commission to agree on a formula for the reduction or limitation of armaments found expression in the ninth League Assembly which met at Geneva in 1928. Chancellor Müller of Germany, in a speech at the seventh plenary meeting of the Assembly on September 7, declared that he viewed with serious concern the present situation of the disarmament question. The failure of the League to solve it "is bound to produce the most serious consequences," he said, reminding the Assembly at the same time that the problem was not incapable of solution in a relatively short time. He asked whether immediate disarmament were considered impossible for those who had won in the World War. Declaring that Germany had not tried to make unreasonable

demands, but had merely been asking others to do voluntarily what had been done for it by the victors, Herr Müller electrified the Assembly by stating that

> the disarmament of Germany cannot possibly continue to be a unilateral act, the outcome solely of the power wielded by the victors in the world war. The promise that Germany's disarmament would be followed by general disarmament must be fulfilled, and, finally, the article of the Covenant which incorporates that promise as a basic principle of the League of Nations must be carried into effect.[49]

The German delegation contended vigorously for the calling of a general disarmament conference during the year 1929, notwithstanding the failure or success that might attend the Preparatory Commission in reaching an agreement upon the technical questions which have hitherto prevented the calling of the conference.

The dialectic between Germany and France, with Italy in the offing, was now transferred from the Preparatory Commission's chamber to the Assembly arena. The answer to the German challenge was made by M. Briand—it was a *non possumus* coupled with a plea for patience and caution. That Germany had carried out the terms of the Treaty was true, but this action was recent and reluctant. It was not enough for France that Germany was disarmed within the meaning of the Treaty. The real fear which still haunted France was the recuperative power which Germany had shown despite the burdens imposed upon it by the victorious allies.

> Who would care to maintain [asked M. Briand][50] that a great country, so powerfully equipped for peace—that is to say, for industrial development, would be at a loss to supply an army with war material? Germany has just shown the world a magnificent example of what she can do. Her mercantile marine was reduced to nil. Within a few years, making the utmost use of her productive powers, her constructive ability and the admirable skill of her people, she recreated it, and now the German merchant service is among the first in the world.

[49] *Verbatim Record of the Ninth Ordinary Session of the Assembly of the League of Nations,* Seventh Plenary Meeting, p. 3.

[50] *Ibid.,* Tenth Plenary Meeting, p. 8.

No single speech has so much revealed how profoundly war and peace involve all social existence, and, by inference, how small a segment of the problem is subtended by the technical questions of disarmament.

The Assembly refused to be discouraged by the lack of progress and ordered the Preparatory Commission to continue its work.

The Hoover Démarche.

The Commission met at Geneva in April, 1929, faced with a deadlock in the matter of naval disarmament, and in the midst of the general biliousness induced by the abortive Anglo-French naval understanding of the previous October, but this meeting was to prove one of the most promising in the life of the Commission. Ever since the inauguration of President Hoover in March, 1929, the world had been waiting for some *démarche* in connection with the fulfilment of the statement in his inaugural address that

> peace can be promoted by the limitation of arms and by the creation of the instrumentalities for the peaceful settlement of controversies. I covet for this administration a record of having further contributed to advance the cause of peace.

The *démarche* came when Mr. Gibson, the United States delegate to the League Preparatory Commission, by announcing that his Government was disposed to accept the French naval proposals with the method of tonnage by categories, dispelled the gloom which surrounded the discussion of the Soviet disarmament proposals.

> Under this method [Mr. Gibson explained] a total tonnage is assigned to each nation and this total divided among categories of ships by specified tonnages. . . . Certain modifications were suggested in informal discussion, so as to provide that the tonnage allocated to any given category might be increased by a certain percentage to be agreed upon, such increase to be transferred from any other category or categories not already fixed by existing treaty.[51]

[51] League of Nations, C. 1895. M. 74, 1929, IX, 56.

This is a partial acceptance of the French proposal, a sort of syncretic plan to allow a smaller naval Power the privilege of partial concentration on a special type for coast or regional defense, but not to such an extent as to threaten the mastery of the two great sea Powers over the major waterways of the world.

Mr. Gibson made a further suggestion concerning a basis of comparison for categories in which there are marked variations as to the unit characteristics. "It might be desirable in arriving at a formula for estimating equivalent tonnage," he said, "to consider certain factors which produce these variations, such as age, unit displacement, and caliber of guns." In evolving this "yardstick," it was understood that the United States favored a system of index numbers under which would fall the characteristics of speed, age, cruising radius, displacement, etc. The adoption of proposals on this line would relieve the tension created by the demand for "parity," although not of course establishing equivalence of all the factors which the demand for "parity" in its extreme forms has insisted should be brought into account, such as naval bases, merchant marine and its personnel considered as "reserves," oil resources, and so on.

Naval Parity.

The acceptance by Great Britain of the naval equality of the United States involved a fundamental change in the British traditional claim to the sovereignty of the seas. From the Spanish Armada to the battle of Jutland, every forcible challenge to British supremacy at sea had resulted in war. Until the Washington Conference no effort had ever been made to adjust by peaceful negotiation the relative naval strengths of the great Powers, and at Washington the British delegation, faced with the alternative of a costly naval competition with the United States, the outcome of which would have wrested supremacy from Great Britain, were understood as agreeing to the principle of naval equality. Yet the specific agreements entered into left the two fleets unequal in fact.[52] The problem of cruisers and lesser craft was still to be determined, and it was by no means so easy to agree

[52] Hector C. Bywater, *Navies and Nations*, p. 142.

upon definitions, reductions, and limitations in the case of cruisers and lesser craft as it was in that of battleships and battle cruisers.[53] The difficulty in the case of the cruisers was one of naval strategy. And here again appears the fact that every move in the disarmament sphere is part of the larger chess game for relative power. Battleships and battle cruisers move as a unit from defined bases and within a defined radius. Their main, virtually their sole, function is that of battle—to seek out and destroy the enemy's fleet. Parity as applied to this unit may perhaps be roughly measured in terms of gunnage and tonnage. But cruisers earn their keep mainly by protecting their own commerce or by intercepting the commerce of the enemy.[54] Hence out of this difference in function arises the difficulty of applying parity to cruisers, parity being a term which really looks to battle odds.

Aside from these considerations, the term "parity" is ambiguous. It may be used in at least two senses, that is, as indicating naval policy or naval technique. In the field of policy naval "parity" has nothing to do with a meticulous quest for equality in battle odds: it implies equality in power and prestige, both of which of course may be used for coöperation. In naval technique "parity" seems to presuppose equal battle odds so that neither state could rule the seas in war time; here the considerations which enter into the term are not simple mathematics but higher calculus; gunnage, tonnage, age, speed, armor, a fixed coefficient of defense intelligible only to naval savants, begin to enter as criteria for naval equality. The fact is that technically, "parity," like every other abstract standard of armaments, is an absurdity impossible of attainment; it is an idea, which, like an incantation, benumbs an intelligent grasp of the subject. There are factors, such as geography, wealth, population, natural resources, merchant marine,

[53] Battleships and battle cruisers are "warships of great displacement that embody the maximum armament protection and mobility which it is practical to combine in a single vessel. In the battle cruiser armament and protection are in some degree sacrificed to speed." Cruisers are "warships of medium displacement in which moderate armament and protection are combined with great speed." Cmd. 3211, 1928, p. 4.

[54] See Lord Jellicoe's remarks in Records of the Conference for the Limitation of Naval Armaments, Senate Document No. 55, 70th Congress, 1st Sess.

which do not lend themselves to practical measurement, and yet form vital considerations in a nation's military or naval strength. It may even be said that were armored ships abolished supremacy at sea might still fall to the nation which possessed the largest merchant marine;[55] did standing armies not exist, wars, deadly wars embracing all civilized peoples, could still be fought by citizen soldiery as in the times of Athenian Allies and Peloponnesian Confederates. One reason why war is more terrible than it was in the days of absolute monarchy is, as Vice-Marshal Brooke-Popham has pointed out, that now the will of the whole people must be broken in order to win. If we live in the shadow of war it is difficult to see how any nation can be content with an equality of naval strength which implies equal mathematical "battle odds"; common prudence would be suspiciously tenacious in negotiating every detail in order to insure victory or at least the possibility of escaping defeat.

But if "parity" may be regarded as a political principle to control naval policy[56] related to national security as well as to those interests of each nation which lie beyond the bounds of national defense, on this basis it would matter less and less what ships each civilized nation possesses, always bearing in mind that disarmament should proceed proportionally and disparity should not be so glaring as to arouse the popular feeling of insecurity which feeds competition in the building of fighting ships. In the hope of initiating such a process President Hoover declared through Mr. Gibson at Geneva that the United States was willing to make concessions for the sake of facilitating the reduction and limitation of armaments.

Land Effectives.

Whereas Mr. Gibson's overture on naval ratios opened the way

[55] For June, 1928, Lloyd's Register showed that Great Britain possessed 32 per cent of the world's merchant tonnage; the United States, 17.8 per cent; Japan, 6.5 per cent; Germany, 6 per cent.

[56] "It is for the Government of the day to instruct the Admiralty as to what contingencies they are to provide for; and it is not for the Admiralty to decide up to what standard they should build," said Viscount Grey in the House of Lords, London *Times*, November 7, 1928.

out of one of the *impasses* which for three years have held the Preparatory Commission at a standstill, his overture on "trained reserves" seems to have closed a door which British and American diplomacy had been struggling hard to keep open for an equal length of time by insisting that "trained reserves" should be taken into account in estimating the strength of land armies for purposes of evaluating "land effectives." He announced that the United States Government was disposed "to defer to the views of the majority of those countries [i.e. France and its supporters] whose land forces constitute their chief military interest, and in the draft Convention before us to accept their ideas in the matter of trained reserves."[57] In this capitulation the United States Government repeated the concession to the French which the British Government had made in the Anglo-French naval bargain. Lord Cushendun, in the name of Great Britain, four days before his government was voted out of office, signified his concurrence in Mr. Gibson's proposal; but the advent of the Labour Ministry in England brought about a renewal of the previous government's attitude toward "trained reserves." It does not seem likely however, that the conscriptionist Powers, like France and Poland, can be induced to bring their great reserves of man power into the reckoning. Thus on the European continent two opposed systems will be left in existence: that imposed by the four European peace treaties upon Germany and its former allies, and that maintained by the victors. This makes the limitation of military effectives more difficult, though not necessarily impossible.

ARMAMENTS: OLD FORCES AND NEW FACTORS

The Economics of Armaments.

The magnitude of armaments can most easily be brought to the consciousness of the people by reference to the world's military and naval budgets. The League of Nations Preparatory Commission was early confronted with suggestions for budgetary restrictions as a means for checking increasing armaments. The more optimistic members felt that in budgetary limitation lay

[57] League of Nations, C. 195, M. 74, 1929, IX, 114.

great hopes for advancing the Commission's work. So diverse were the views presented in debate that an expert body consisting of members of the Financial and Economic Committees and of some other League bodies was constituted to investigate the possibilities of budgetary restriction and armaments costs. The first question put to the Committee was the following:

"Can the magnitude of the armaments of various States be compared by comparing their military expenditure, and, if so, what method should be followed?"

The answer given was that owing to the many differences, *inter alia*, in price levels, salaries, and wages, in accounting systems, in the costs arising out of the diversity in military and naval organization, viz., voluntary army versus compulsory service, no direct comparison could be valid.

But comparison of annual figures in one country for the purpose of determining the rise or fall of expenditure does not meet with the same objections. Making the necessary correction for variations in price levels, a study of defense expenditure reveals with a fair degree of accuracy the trend and development of armaments in that country. With this end in view a specimen draft of defense expenditure in the form of a questionnaire was drawn up and considered by the technical delegates as a practical method of obtaining information concerning the movement of armaments costs of the various states.

The Committee was asked to explore the possibility of using "Defense Budgets" as a basis for limiting the armed forces of a nation. The limitation on budget appropriation for defense, the Committee found, would reduce armaments to some degree, but if used as an exclusive index the method would be unsatisfactory. Budgetary limitation involves "control," and some nations, notably the United States and Italy, are opposed to international supervision or control, whereas France and its allies are unwilling to trust to the good faith of the signatories.[58] The mechanics of control now rests in a condition of deadlock. Consideration of this problem, like that of so many other vital problems which the Pre-

[58] Great Britain now takes a midway position.

paratory Commission has dealt with, has been postponed to some future time.

A statistical survey of pre-war expenditures for military and naval defense, whatever other value it may have, indicates the growth of fear under the stimulus of armament competition and an increasing wealth to indulge it.

Defense expenditure in dollars (millions).

	1858	*1883*	*1908*	*1913*	*1928*
Great Britain	111	140	295	385	575
United States	39	64	293	335	737
France	95	115	220	410	455
Germany	25	100	295	500	185
Italy	10	60	90	145	255
Austria-Hungary	55	65	105	120	...
Russia	95	180	300	460	485

The above table[59] shows that the great Powers spent five times as much on armaments in 1913 as they did in 1858.[60] The increase in armaments expenditure between 1908 and 1913 was in most cases more than 50 per cent. In those years, it is estimated that European Powers spent $45,000 million, of which $38,500 million, or more than five-sixths, were spent by Great Britain, France, Germany, Italy, Austria-Hungary, and Russia.

These armaments expenditures form a major part of most nations' total budgets. The total British budget amounted in 1928 to £750 million, of which £400 million went to pay for past wars, about £65 million for war pensions, and some £115 million for current armaments expenditures; i.e., 14*s.* in the pound of cost of government is attributable to war. The French budget reveals similar proportions. In the United States the expenditure attributable to war (i.e., service of war debt, war pensions, and current armaments expense) represents 80 per cent of the total Federal budget.[61] Appropriations for the War and Navy Departments alone from 1914 to 1929 were:

[59] *Economist,* Armaments Supplement, October 19, 1929. The figures for the United States are taken from the *Annual Report of the Secretary of the Treasury,* June, 1929.

[60] If the average rise in prices between the two dates were taken into account, the above estimate would be reduced by about 45 per cent.

[61] *Annual Report of the Secretary of the Treasury,* June, 1929.

Year	*War Department*	*Navy Department*	*Total*
1914	$ 194,939,626	$ 144,982,547	$ 339,922,173
1915	188,476,640	150,357,571	338,834,211
1916	189,286,924	153,097,154	342,384,078
1917	443,082,460	320,718,084	763,800,544
1918	7,592,813,043	1,606,052,674	9,198,865,717
1919	16,003,818,562	1,793,682,080	17,797,500,642
1920	876,464,936	910,560,128	1,787,025,064
1921	494,974,977	453,578,251	948,553,228
1922	459,080,356	489,651,232	948,731,588
1923	359,591,500	300,513,661	660,105,161
1924	355,210,518	325,322,863	680,533,381
1925	341,339,807	278,600,933	619,940,740
1926	364,624,851	324,752,032	689,376,883
1927	367,385,646	325,790,513	693,176,159
1928	370,420,310	320,465,998	690,886,308
1929	466,795,331	394,730,344	861,525,675

In spite of all these vast outlays, ostensibly in the name of self-protection, the great Powers have had less peace than have neutral countries like Sweden and Switzerland. Incurring no debt for armaments purposes and maintaining forces so small in number as to be useful only for territorial defense, these two nations have enjoyed peace for 100 years at a low price. The yearly armament cost is less than one-third of the total Swiss budget, and one-fifth of the Swedish.[62]

The "war to end war" has not reduced armaments expenditure, for Europe in 1928, in spite of the enforced disarmament of the former Central Powers, spent $2,620,000,000, or $225,000,000 more than in 1913,[63] approximately 30 per cent more on the average for the armed countries than they spent in 1908.[64]

The people who inhabit the United States are not biologically less quarrelsome than other folk; their geographical immunity relieves them of such intrigues and alliances for strength, armament preparations, and the neurosis of defensive attack as have made the nightmare of the European peoples. Of the present world expenditure on armament—a total of about four and a half billion dollars—60 per cent is spent by the European countries, about 20 per cent by the United States, and 20 per cent by the rest of the world.[65] It is evident that economic power is not the

[62] *Armaments Year-Book*, 1928–29.

[63] Figures take into consideration the changes in price levels.

[64] *Economist*, Armaments Supplement, October 19, 1929.

[65] These figures represent minimum costs. If such defense measures as strategic

sole measure of war preparation. The income of the 120 million inhabitants in the United States, estimated at a total of $80,000 million, is as large as that of Europe with 480 million inhabitants, yet the United States is responsible for only 17 per cent of the world's armaments expenditures, as against Europe's 66 per cent. The *Economist* believes that

> if Europe devoted to armaments the same percentage of its aggregate income as the United States of America, it would be spending, not at the rate of £524 million a year as at present, but something like £160 million. That would mean universal reduction to the level of armaments now obtaining in Switzerland or Austria, or, in other words, the elimination of all aggressive elements in the defense organizations of European countries.

And Sir Josiah Stamp estimates that maintenance of the present armaments reduces the European standard of living by about 10 per cent. The heavy burden of European armaments is proportionate to European anxieties.

The price paid by Germany in national pride in accepting the disarmament forced upon it at Versailles is coming back to it in economic blessings. Germany would have had much greater difficulty in meeting its obligations under the Dawes Plan but for Section V of the Treaty of Versailles.[66] In the last five pre-war years Germany spent on its army and navy (exclusive of pensions):

(000,000 omitted)

	Marks
1909	1,288.6
1910	1,266.8
1911	1,276.6
1912	1,392.6
1913	1,947.7
Average	1,435.0

railways, protection of key industries, and compulsory military service of Continental Europe—all economically wasteful—were taken into consideration, the real costs would be much greater. The figures would then be, two-thirds for Europe, one-sixth for the United States, and one-sixth for the rest of the world.

[66] See James W. Angell, *The Recovery of Germany* (1929), chap. ix.

Its post-war armaments expenditures (exclusive of pensions) including war charges are:[67]

(000,000 omitted)

	Marks
1924	497.8
1925	621.3
1926	658.1
1927	717.2
1928	715.6
1929 (estimate)	666.0

German post-war expenditure, price levels being equated, is about one-third that of the pre-war figures. Expenditure for armaments has steadily risen, but this has involved no breach of the Treaty.[68] The increase in costs has gone toward improving the quality of material and the training of men.

Security and Armaments.

Security is the dogma of the insecure, the most important goddess of the trinity—security, arbitration, and disarmament—which the League has erected in its quest for a formula to bring about reduction and limitation of armaments. The great exponent of the security cult is France, the prime mover throughout the post-war history of security. For five years after the signing of the Treaty of Versailles, the French Government directed its diplomacy toward the making of an anti-German bloc in Europe and an alliance with Great Britain against any future German aggression. The heroic effort of the League of Nations to generalize and extend security to all its members by means of the Geneva Protocol of 1924 was the inspiration of France, and the Treaty of Locarno was a specialized and an abridged edition of the general French thesis contained in the defunct Geneva Protocol.

The deadlock in the Preparatory Commission on this point of security, the increasing tendency of France and Italy to place their trust in alliances, the German insistence on some corre-

[67] *Armaments Year-Book*, 1928–29, p. 457.

[68] The distinguished soldiers of the Allies who spent months working out a disarmament plan for Germany overlooked the principle of limiting armaments expenditure.

sponding measure of disarmament on the part of its ex-enemies, brought home to the League the necessity for further effort along the path of security. The Preparatory Commission, created to solve the problem of disarmament *qua* disarmament, could not get away from the problem of security. After the entry of Germany into the League, the French became more insistent upon the thesis that there can be no disarmament without security; now that Germany could voice at the international council table its insistence that Article VIII of the Covenant be carried out, France's feeling of insecurity appeared to increase.

In the present state of international organization, League efforts are mainly in the stage of unratified conventions or the appointment of committees. In 1927 a Security Committee was created "to consider . . . the measures capable of giving all States the guarantees of arbitration and security necessary to enable them to fix the level of their armaments at the lowest possible figures in an international disarmament agreement."

At the outset the Security Committee met with a severe shock when Mr. Hugh Wilson, speaking for the United States, announced that his Government felt itself unable to coöperate in the labors of the Committee, stating a reason which the League has so often heard—the historic American determination to leave to Europe those matters which are peculiarly their own concern without the participation of the United States therein. This declaration was a serious handicap to the Committee. The League has often asked whether economic realities have not triumphed over political myths. American economic penetration to every corner of the world has made it politically impossible to maintain the historic attitude of isolation, and by note or otherwise the United States presents ever more frequently a lively American interest in the complications in various parts of the world in which diplomacy comes to the support of investments and trade. But in respect of an organization for general security the League's question remains unanswered, for under the United States Constitution the distribution of domestic control over foreign affairs makes such questions embarrassing for a particular organ of government.[69]

[69] See the *Survey*, 1928, pp. 83–148.

Yet in the highly complex and politically difficult problem of achieving security—and "security" here is really another word for sanction—the position and desires of the United States must play an important, if not a decisive part, when the sanctions are brought into play. This may be illustrated by the case of an "economic blockade" which might be invoked by members of the League under Article XVI of the Covenant; Great Britain and the other large trading nations lack assurance that if they cut off commercial and financial relations with a nation recalcitrant to its obligations to keep the peace (whether under League Covenant or Paris Pact) America will not insist on carrying on trade with that nation.

The Security Committee nevertheless set to work to explore the measures capable of furnishing guaranties of arbitration and security as conditions precedent to limiting and reducing the level of armaments. The Committee's labors have resulted in the drafting of model treaties, which in general are based on the recommendations submitted by M. Politis, the *rapporteur* on security. They are as follows:

1. The conclusion of regional pacts (in preference to separate treaties of non-aggression) for the pacific settlement of disputes and mutual assistance or of non-aggression.
2. The chief points relating to security deal with (a) provisions for pacific procedure; (b) a system of mutual assistance in coöperation with the Council of the League; and (c) condemnation of recourse to war.
3. Wars of aggression are condemned, but force sanctioned by Article XVI of the Covenant is legal.

The making of regional rather than general pacts was preferred by M. Politis as the more logical and speedier method. After two unsuccessful attempts in 1923 and 1924,[70] it would be not merely useless but dangerous to the prestige of the League to make a third attempt, for the objections raised to the earlier attempts still existed. The work of the Security Committee resulted in six model conventions for the pacific settlement of inter-

70 The Treaty of Mutual Guaranty and the Geneva Protocol.

national disputes, three of which were general and three bilateral.[71] Three model treaties as to non-aggression and mutual assistance were also adopted. These differ from the Locarno Pacts in that they do not embody any clause guaranteeing the maintenance of the territorial *status quo*, or provide for the coming into play of any automatic sanctions. Those features were necessarily omitted because it was feared that they would not be acceptable to certain states which would otherwise adhere. The Committee recommended a model treaty to strengthen the means of preventing war, a draft resolution regarding Articles X, XI, and XVI of the Covenant and a draft resolution to facilitate the accession of states to the Optional Clause of the Statute of the Permanent Court of International Justice. The Assembly of the League passed resolutions placing at the disposal of the states this whole series of instruments with the hope that they might consolidate their mutual pacific engagements. Along with the Pact of Paris there was now a sufficient variety to meet the needs of every state. The President adjourned the Security Committee *sine die*, with the blessing that "we must now leave the time factor to do its work."[72]

The Security Committee has done what was expected of it. It explored the problem, it constructed a crucible which the future disarmament conference hopes to fill; it could do no more. The value of any agreement, however comprehensive and however important as regards the nature of the parties, is essentially relative, for the efficacy of the military security which it appears to give to the parties will, in actual fact, depend largely on the position as regards security of other countries linked with them by ties of "solidarity of a geographical or other nature."

But objective military security is not all. Security is also a subjective psychological factor, a feeling which comes from the absence of any danger of aggression—more strictly to be called "a sense of security." It cannot be guaranteed solely by a limitation of armaments although fostered by arms-limitation.

No nation bent upon protecting its interests by its own strength

[71] League of Nations, C. 342, M. 100, 1928, IX.
[72] *Ibid.*, C. 195, M. 74, 1929, IX, 195.

feels secure when it looks upon its neighbors and upon the troubled state of the world. Its present defenses are "inadequate." Periodically the naval and military experts reveal the nation's defenseless condition. The "air raids" carried out by the Royal Air Force in 1928, "proved" how vulnerable was London. Defenseless Britain has its counterpart in defenseless America, defenseless France in defenseless Italy. There is always a point of fatal weakness in the national defense—either in the soldiery or coast defense, in aircraft carriers or cruisers, in naval bases or air power. These persuasions are effective with the masses of people who have so long lived in the shadow of war that they cannot easily believe that it may vanish from the earth.

American experience with security has undergone two distinct lines of development. There is the experience which looks across the Pacific toward Japan, and the experience with its more immediate neighbor in the north—Canada. The American feeling of insecurity arising out of the exposed Pacific coast line began to take on measurable proportions in the nineties. How to get the Atlantic fleet to the Pacific coast in case of need became a paramount and disturbing problem with the strategists of the United States navy, which was dramatically illustrated by the sixty-six day voyage of the *Oregon* around Cape Horn to join the Atlantic battle fleet in the Spanish American War.[73]

After acquisition of the Hawaiian Islands the construction of a canal across the Isthmus of Panama became more imperative, for it now seemed that with a westward extension two thousand miles into the Pacific American security was in greater danger than ever before. There was something of a "manifest destiny" ring about the way the "security" feeling gripped the American Government in the last decade of the last century.

On the other hand, as the United States staked its claims continually westward in the Pacific in the name of security, Japan began to feel that its own security was being jeopardized. A study of the Japanese defense budgets from 1900 on reveals the growing nervousness which that nation began to experience as the result of the American march westward. The Japanese budget called for

[73] *Survey,* 1929, p. 277.

naval expenditures of 58,274,895 yen in 1900, 65,722,122 yen in 1910, and 483,599,712 yen in 1921.[74] A military establishment which Mr. Coolidge declared[75] to be "moderate and designed exclusively for defensive purposes" alarms the Japanese, who cannot see that preparation "for defensive purposes" is unrelated to the attitude which one Power assumes to another when the days of irritation are born. Fear, as the Russians say, has big eyes. The security of one is the insecurity of the other, and "immobile fortresses are the only 'defensive' weapon which could not be thrown into an attacking line." Bywater quotes[76] an account of the proceedings in the Budget Committee of the Japanese Diet when the naval program of 1920 was under discussion:

A MEMBER: "For how long a period will the requirements of the Navy be covered by this Bill?"

ADMIRALTY REPLY: "No definite answer can be returned to that question. The programme now before you is the minimum consistent with our needs to the end of 1924. It is not considered wholly adequate by the Imperial Navy Department, especially as regards the number of cruisers and submarines, these being types to which special importance is attached. Developments in the naval policy of foreign States cannot be ignored by us."

A MEMBER: "Does this programme take cognisance of current naval expenditure in the United States and England?"

ADMIRALTY REPLY: "Yes, it was not prepared until the extent of current naval expenditure by those two Powers was known to us. Any substantial additions which may be made by either of them would compel us to reconsider our own Budget."

A MEMBER: "Are we, then, building warships against the United States or England, or both?"

ADMIRALTY REPLY: "No; against neither. The Navy Department deprecates such suggestions. But it is obvious that our own programme must be influenced by what is being done abroad."

A MEMBER: "The political outlook must indeed be grave if the Navy Department feels warranted in demanding £68,000,000 for new warships at a time of such pronounced economic stress. The Com-

[74] The figures are taken from the *Financial and Economic Journal of Japan*, 1910 and 1926, issued by the Japanese Department of Finance.

[75] Interview at Superior, Wisconsin. New York *World*, August 11, 1928.

[76] *Sea Power in the Pacific*, p. 155.

mittee would welcome a more detailed explanation of the Department's reasons for this heavy demand."

ADMIRALTY REPLY: "The programme is dictated by requirements of strategy. It was not drawn up without earnest consideration or without due allowance being made for the country's financial situation. Every nation must, however, be prepared to make sacrifices if it desires to be safe from foreign aggression."

The meteoric rise of these expenditures in turn caused uneasiness in the United States over the Pacific possessions acquired in the name of security. The United States was beginning to feel less secure than before, and this in spite of the fact that it had extended the range of safety from its own Pacific coast to the Philippines, a distance of over six thousand miles. A Four Power Pacific Pact and a naval limitation and non-fortification agreement had to be entered into in order to check the naval competition between the two nations and instil a sense of security in both.

The lesson of the Rush-Bagot Agreement of 1817,[77] establishing "security" between the United States and Canada is the *locus classicus* in the history of security. The spirit of this agreement has intensified the like-mindedness of the two nations in the keeping of peace and assisted the development of the relation—signs of international civilization. The Rush-Bagot Agreement was essentially a renunciation of war as an instrument of national policy, and has provided ever since a means of escape from competitive arming of the two nations, not only on the Great Lakes and the St. Lawrence River—the extent of the boundary at that time—but along the entire stretch of three thousand miles of their common frontier. In 1911 the United States and Canada implemented the Rush-Bagot Agreement by establishing an Interna-

[77] "The naval force to be maintained upon the American lakes by His Majesty and the Government of the United States shall henceforth be confined to the following vessels on each side, that is—

On Lake Ontario, to one vessel not exceeding one hundred tons burden, and armed with one eighteen pound cannon.

On the Upper Lakes, to two vessels not exceeding like burden each, and armed with like force.

On the waters of Lake Champlain, to one vessel not exceeding like burden, and armed with like force.

All other armed vessels on these lakes shall forthwith be dismantled, and no other vessels of war shall be there built or armed." Malloy's *Treaties,* I, 630.

tional Joint Commission to deal with all disputes which may arise. In the twenty-three cases referred to it during its eighteen years of existence, the Commission has been unanimous in its recommendations in every case but two, and every award has been accepted.

The launching of a cruiser in the Brooklyn Navy Yard, the laying of a keel for a new aircraft carrier in Norfolk, the Congressional approval of the War Department's expenditures running into hundreds of millions have no disturbing repercussion in Canada. The spirit of the Rush-Bagot Agreement has become a tradition.

The Peace Time Function of Armaments.

To carry on war is not the sole *raison d'être* of large armaments; they play their rôle, a subtler one, in time of peace also. Armaments are the most important instruments possessed by the state for enforcing its policy on other states. To understand this function of armaments is to understand much of the spirit that pervades disarmament conferences, and why success in an absolute sense is so difficult to obtain.

> It is not so much actually in order to shoot her guns at England that America wants cruisers; nor to defend her supplies from American cruisers that England is so particular about her superiority at sea. It is because naval preëminence means international prestige; preponderance in the counsels of the world; authority in troubled areas such as China; power to have one's way; political backing to financial economic and commercial penetration.[78]

In time of peace the true head of the army and navy is not the minister of national defense, as he is sometimes euphemistically labeled, nor the minister of marine, but the foreign secretary. When the British battleships in the Mediterranean set sail for Alexandria pursuant to an ultimatum to the Egyptian Government demanding the withdrawal of the Public Assemblies Bill from the Egyptian Parliament before 7:00 P.M. on May 2, 1928, it was Sir Austen Chamberlain, the British Foreign Secretary, and not Mr. Bridgeman, the First Lord of the Admiralty, who was

[78] Madariaga, *op. cit.*, p. 231.

directing the course of the fleet. Nor is the British Foreign Secretary to be regarded as unique in this rôle. The United States Secretary of State has on several occasions directed the military and naval wing of American diplomacy to the Caribbean region. On February 20, 1927, "acting under authorization of the State Department, Admiral Latimer landed forces from the [cruisers] *Milwaukee*, *Raleigh*, and *Galveston* in Managua,"[79] a seaport town in Nicaragua. The marines were sent ostensibly for the purpose of protecting American lives and property; but those sent in January, 1928, were there largely for the purpose of running down Sandino and his small body of followers who took to the northern jungle. The act of sending these marines was, therefore, not simply military or protective, but the expression of a policy of state such as Madariaga describes:

> The stronger his military and naval wings, the easier his task, the less he has to water down truth, the higher can his reputation soar. A war, i.e., a fit of hostilities in the permanent world war, occurs when the foreign secretary has to own up a failure, and to hand over the army and navy to generals and admirals.[80]

In the same vein was the address of M. Leygues, French Minister of Marine at Brest, November 14, 1929.

> Legitimate use of sea power and strength upon the seas is essential for real greatness in a country. Eras of economic prosperity and political power always coincide in a nation's history with periods of naval prosperity. In order to be a world power in the broadest sense, a country must be a great naval power. In the natural order of things, each nation must have its share of warships in proportion to its power, the number of its ports and the length of its coast-line. That was the formula of Colbert, the great minister of Louis XIV, and it is our policy today.[81]

Colbert's nationalism was more rampant, for he also believed that the prosperity of a neighbor was a danger, and that a truly great France would be one in which all its rivals would be paupers; M. Leygues' address did not refer to that part of Colbert's views

[79] *State Department Release* of February 21, 1927; see also *Survey*, 1929, p. 193.

[80] Madariaga, *op. cit.*, p. 59.

[81] *New York Times*, November 15, 1929.

which might have stimulated his audience to some reflections out of line with his own teaching.

The Franco-Italian controversy over naval equality which dates back to the Washington Conference is, to a large degree, a matter of prestige. With the present French navy aggregating 550,000 tons as against Italy's 260,000, equality of prestige can be attained in one of two ways: (a) either Italy must build up to the French level, or (b) France must cut down to Italy's level. M. Briand has proposed a third, the formula characterized by the phrase *chiffres de prestige* under which all of the great naval Powers would be given the "theoretical" right to maintain equality of tonnage in auxiliary craft, at the same time agreeing not to build more than a specified portion of this tonnage. The embarrassment and the irritation which France suffered at the Washington Conference as a result of the Italian demand for equality and its willingness to go as low as the French was to be avoided at a future disarmament conference by this contrivance of *chiffres de prestige*. At M. Briand's suggestion, the idea was incorporated in the still-born Anglo-French Naval Compromise.

Armaments give "station" to nations in the international community. The larger the armament the higher the station. This prestige is an immaterial substance, highly valued, not capable of adequate statement; when called national honor, it moves in the realm of magic and is exposed to injury wherever it is found.

NOTE ON COMPARATIVE NAVAL STRENGTH

Capital Ships and Aircraft Carriers.

The Washington Treaty of 1922, signed and ratified by Great Britain, the United States, Japan, France, and Italy, put an end to the menacing and costly competition in capital ships. At present no capital ships are being built, are appropriated for or authorized by any of the signatories to the Washington Treaty.[1] Had the competition not been checked, the United States, *ceteris paribus*, would have achieved primacy as a naval Power, displacing England which has held the trident since the days of the Spanish Armada. Mr. Green of Iowa, Chairman of the Ways

[1] United States Navy, Office of Naval Intelligence, December 11, 1929.

and Means Committee of the House, stated that had the United States carried out its naval program existing at the time of the Washington Conference, "our navy expenditures, at a moderate calculation, would have doubled annually." He estimated that the limitation on capital ships will have saved for the American people at least $3,000,000,000 when the ten-year period is up.

The comparative strength of the five signatory Powers in capital ships and aircraft carriers within the effective age of twenty years in December, 1929, was:[2]

UNITED STATES

	Built		*Building*		*Authorized*		*Total*	
Type	*No.*	*Tons*	*No.*	*Tons*	*No.*	*Tons*	*No.*	*Tons*
Capital Ships	18	525,850	..	.....	(a)	.....	18	525,850
Aircraft Carriers	3	76,286	..	.....	1	13,800	4	90,086

BRITISH EMPIRE

	Built		*Building*		*Authorized*		*Total*	
Type	*No.*	*Tons*	*No.*	*Tons*	*No.*	*Tons*	*No.*	*Tons*
Capital Ships	20	556,350	..	.....	(a)	(a)	20	556,350
Aircraft Carriers	5	92,850	1	22,500	..	.....	6	115,350

JAPAN

	Built		*Building*		*Authorized*		*Total*	
Type	*No.*	*Tons*	*No.*	*Tons*	*No.*	*Tons*	*No.*	*Tons*
Capital Ships	10	301,320	..	.....	(a)	(a)	10	301,320
Aircraft Carriers	3	61,270	..	.....	1	7,600	4	68,870

FRANCE

	Built		*Building*		*Authorized*		*Total*	
Type	*No.*	*Tons*	*No.*	*Tons*	*No.*	*Tons*	*No.*	*Tons*
Capital Ships	9	194,556	..	.....	..	.....	9	194,556
Aircraft Carriers	1	21,160	1	9,840	..	.....	2	31,000

ITALY

	Built		*Building*		*Authorized*		*Total*	
Type	*No.*	*Tons*	*No.*	*Tons*	*No.*	*Tons*	*No.*	*Tons*
Capital Ships	4	.....	..	.....	..	.....	4	89,976
Aircraft Carriers	1	5,000	..	.....	..	.....	1	5,000

(a) The United States and British Empire under the Washington Treaty were each permitted to lay down and complete five capital ships of a maximum of 175,000 tons prior to December 31, 1936; Japan, three capital ships of a maximum of 105,000 tons prior to that date.

[2] Data taken from *British Admiralty Blue Book,* Cmd. 3464, 1930, and *United States Naval Intelligence,* December 9, 1929.

Great Britain was given a margin of superiority over the United States in battleship strength to offset the relatively greater obsolescence of its capital ships. In aircraft carriers, Great Britain has a considerable margin of tonnage over that of the United States, notwithstanding the fact that the Washington Treaty allotted 135,000 tons to each. The reasons for this disparity are due in the main to the experimenting which is still going on with this type of craft and the enormous cost[3] which the controllers of the national purse are reluctant to indulge in. Italy, although accorded the same capital ship tonnage as France, had made no attempt prior to 1930 to achieve equality; in capital ships France in 1929 had more than twice the number and tonnage of its Mediterranean rival.

Auxiliary Craft.

The American Government's proposal at the Washington Conference to extend the 5:5:3:1.75:1.75 ratio to cruisers, destroyers, and submarines was blocked by the refusal of the French Government to accept the submarine tonnage quota of 30,000 allotted to it under the Hughes plan. France's submarine strength at the time of the Conference was between 30,000 and 40,000, built, building, and projected. To compensate for its low position in battleship strength, France demanded a minimum of 90,000 tons of submarines, i.e., parity in this department with Great Britain and the United States. Great Britain declared that unless submarines were limited, it would not accept the auxiliary surface craft ratio which in reality constituted a potential antidote to the submarine. The Conference took the line of least resistance; rather than wreck the work that had already been accomplished in connection with the limitation of capital ships, it abandoned the numerical restriction of auxiliary craft.

The following tables indicate the number and tonnage of combatant ships within the effective age of twenty years for cruisers, sixteen years for destroyers, and thirteen years for submarines whose numbers were not affected by the Washington Treaty:

[3] The aircraft carriers *Lexington* and *Saratoga* cost $45,000,000 apiece. Each ship has a landing area of five acres, and can carry seventy-two planes.

UNITED STATES

	Built		Building		Authorized		Total	
Type	*No.*	*Tons*	*No.*	*Tons*	*No.*	*Tons*	*No.*	*Tons*
Cruisers	11	80,500	12	120,000	10	100,000	33	300,500
Destroyers	284	290,304	..	.....	(b)	(b)	284	290,304
Submarines	108	77,062	2	5,520	3	4,650	113	87,232

BRITISH EMPIRE

	Built		Building		Authorized		Total	
Type	*No.*	*Tons*	*No.*	*Tons*	*No.*	*Tons*	*No.*	*Tons*
Cruisers	53	321,991	6	56,800 (c)	3	23,000	62	401,791
Destroyers	153	159,280	20	26,960	9	12,160	182	198,400
Submarines	51	42,061	12	21,860	6	9,420	69	73,341

JAPAN

	Built		Building		Authorized		Total	
Type	*No.*	*Tons*	*No.*	*Tons*	*No.*	*Tons*	*No.*	*Tons*
Cruisers	29	166,815	4	40,000	..	.....	33	206,815
Destroyers	101	105,575	6	10,200	8	13,600	115	129,375
Submarines	61	61,357	6	10,220	4	6,290	71	77,867

FRANCE

	Built		Building		Authorized		Total	
Type	*No.*	*Tons*	*No.*	*Tons*	*No.*	*Tons*	*No.*	*Tons*
Cruisers	15	136,285	4	36,600	1	10,000	20	182,885
Destroyers	59	65,912	17	35,082	6	14,172	82	115,166
Submarines	43	34,845	36	42,811	11	12,442	90	90,098

ITALY

	Built		Building		Authorized		Total	
Type	*No.*	*Tons*	*No.*	*Tons*	*No.*	*Tons*	*No.*	*Tons*
Cruisers	14	90,243	4	20,000	6	50,000	24	160,243
Destroyers	71	62,256	14	21,100	4	4,820	89	88,176
Submarines	38	20,478	15	12,247	7	4,200	60	36,925

(b) In addition twelve destroyers were authorized by Act of Congress, August 29, 1916, but no funds have been authorized for their construction.

(c) Includes *Surrey* and *Northumberland,* the construction of which has been postponed.

Cruisers.

According to these figures Great Britain has nearly twice as many cruisers as the United States. The *Admiralty Blue Book*[4] for 1929 credits the United States with a total of forty-five cruisers;

[4] Cmd. 3464, 1930.

but vessels within the effective age of twenty years are the only ones included in the Navy Department's statistics, and the American figures in the above table show but thirty-three such vessels. Regarding twelve American cruisers as obsolete or obsolescent, the navy refuses to include them under the heading of "first line" vessels; of the forty-five American cruisers listed in the *Admiralty Blue Book*, nineteen were completed before 1909 and three of these before 1900. But age is by no means the only criterion of measurement; the factors of size, speed, armor, and gun caliber determine the effectiveness of a vessel in combat, and to the naval experts these are more important than age.

Obviously sixty-two small cruisers can protect or destroy more commerce than can thirty-three large cruisers; on the other hand in combat strength a group of large cruisers may be equal or even superior to a group of small cruisers which is larger in number of units and in tonnage.

Destroyer Types.

The United States has more destroyers than Great Britain and Japan combined.[5] This type of vessel has proved itself indispensable to a modern fleet. Although it cannot perform the duties of a cruiser of larger tonnage—destroyers generally range from 800 to 1,500 tons—it is, as its name implies, a powerful instrument of offense against submarines.

> No other class of vessel was more directly responsible for the protection of sea traffic in the Great War. . . . The universal appreciation of the destroyer as the surest antidote to the submarine menace is attested by the enormous number of these boats constructed during the war in Great Britain and the United States. Thrice-armed with ram, gun, and depth-charge, and able to pursue its prey at a speed of 40 miles an hour, the destroyer is, and promises always to remain, the submarine's deadliest foe.[6]

Submarines.

The submarine is the weapon of the small and relatively poor naval Power; seven submarines of the V-type—the largest and

[5] United States Navy, Office of Naval Intelligence, December 11, 1929.
[6] Bywater, *op. cit.*, p. 57.

costliest type of the American submarine fleet—can be built with the money expended on the construction of one battleship. It nearly wrecked the Washington Conference of 1921–22, and in a sense it did wreck the Three Power Naval Conference at Geneva in 1927. French determination to have 90,000 tons of submarines led Great Britain to reject the extension of the 5:5:3 ratio to cruisers in 1921, and the British insistence upon more cruisers at Geneva in 1927 was prompted by increasing French activity in submarine construction.[7] This fact was not fully grasped by the American delegation at Geneva which saw only the United States as the target of British cruisers. The submarine is an effective instrument for endangering the security of the British Empire along the vital routes which lie within the reach of the most formidable submarine power in Europe.

While Great Britain uses the language of cruisers to defend its trade routes and communications, France uses that of submarines for military reasons. Morocco, Algiers, and Tunis are reservoirs of French man power. With English control of the Mediterranean cutting "Greater France" in two, the security of French surface communication is at the mercy of the British fleet, and a large submarine fleet is thought desirable to assure surface transport between France and its African colonies. When its present submarine program is completed, France will have ninety submarines totaling 90,098 tons as against Great Britain's sixty-nine submarines totaling 72,521 tons.

France would not at Washington accept for submarines the ratio allotted to it for capital ships. It accepted the capital ship ratio because (a) it was required to scrap nothing; (b) neither on the French coasts nor on the Mediterranean could its main fleet resist the British; (c) its existing capital ship tonnage of 221,170 contained a number of old ships and it suffered nothing in having a replacement tonnage of 175,000; (d) it obtained the right to lay down new tonnage in 1927, 1929, and 1931, on the theory that it had not built since 1915, but really as a compromise. The ratio of 5:5:3:1.75:1.75 was an expedient based mainly on the gen-

[7] In 1922, France had 1,000 tons of submarines under construction; in 1927, 25,000 tons.

eral fleet power at the time it was proposed. There is no logical reason why it should be applied to submarine tonnage which the French argue must be based on their special needs.

The Anglo-American acceptance of "parity" as a guiding principle is rejected by France as an example for itself and Italy. As between the United States and Great Britain, the actual difference of strength is about 10 per cent; as between France and Italy it approaches 50 per cent of French strength in every class. The French believe that the difference represents a difference in needs: they have ports to defend on the Channel, the Atlantic, and the Mediterranean; they own enormous areas in northern, western, and equatorial Africa; Madagascar is as large as England and Wales together and has a population of over three and a quarter million; in the American hemisphere are French Guiana and three of the Lesser Antilles; in the Orient are Indo-China with an area of 300,000 square miles and 20,000,000 people, besides some small islands; and there are the important mandates of Syria and the Cameroons. Against such responsibilities Italy can show only its own coast line, the Dodecanese, and Libya, Eritrea, and Somaliland in Africa.

The latest French estimate of the relative naval requirements of the five Powers, based on purely practical grounds, is contained in a report which has been submitted to the Navy Committee of the French Senate. The needs of Italy are taken as the unit, and "coefficients of defense" are calculated in various factors as follows:

	Area of Territory	*Length of Coasts*	*Length of Communications*
British Empire	15.8	9.5	11.2
United States	4.	4.6	3.2
Japan	0.3	3.	1.
Italy	1.	1.	1.
France	4.7	2.3	6.8

For external trade and sea-borne traffic, the figures are as follows:

	External Trade	*Sea-borne Traffic*
British Empire	10.6	17.8
United States	5.3	7.6
Japan	1.3	2.3
Italy	1.	1.
France	2.7	3.6

In this fashion France estimated its naval needs as larger than those of Japan, about half those of the United States and much larger than those of Italy, though only one-fifth those of Great Britain. Ignoring political realities, the calculation presents factors which are thought by the French[8] to justify an out-and-out refusal of Italian parity.[9]

[8] London *Times,* December 6, 1929.

[9] The treatment of the London Naval Conference of 1930, according to the plan of the *Surveys,* will appear in the *Survey* for 1931.

CHAPTER TWO

THE FIRST TEST OF THE PACT OF PARIS

THE uncircumscribed phraseology of the Pact of Paris evolved in the United States several types of thought concerning its future application. Persons of sanguine temperament saw in the simple fact of renunciation by fifty-eight nations[1] of "war as an instrument of national policy" a new evangel, creating a new era in which the regeneration of men's hearts would abate the nationalistic pretenses of states and statesmen and bring about universal peace. The fervent desire of the masses for peace would, these apostles of war "outlawry" believed, surmount the popular antipathies and the enthusiasms for "rights," "interests," and "policies" which create the will to war, and would somehow fuse and resolve away spontaneously those issues and causes of controversy which in the past have too often found in war their sole arbitrament. Regeneration would come by grace under the inspiration of the "word."

A second group represented the school of American thought which finds American security to consist of a voluntary abstention, as complete as possible, from external relationships which carry either explicit responsibility for action or the implication that action will be taken under pressure of circumstances. To this group there were two dangers in the Pact of Paris; one was the possibility that the Pact might be interpreted to restrain the United States from declaring war in the case of an infringement of the Monroe Doctrine, or from asserting some of the rights of "neutrality" or the "open door" policy. The indispensable and therefore implied right of "self-defense," naturally interpreted as defense of the national domain, would not protect these intangibles, which might be important for the national welfare even if they did not involve its security. Apprehension on this score was quieted by repeated assurances from Secretary Kellogg that each nation would be as free after the Pact as before to make war in self-defense, and to construe "self-defense" for itself, i.e.,

[1] As of July 1, 1930.

in its own interest; war in self-defense would permit of war in defense of a "right" or "interest," even though it might be difficult in the concrete to distinguish an intangible "right" or "interest" from the national "policy" which would no longer be a legitimate basis for war.[2] The Committee on Foreign Relations, by declaring in its report that the Monroe Doctrine is an interest of the United States, the maintenance of which is an act of self-defense,[3] gave notice, to the national constituency at least, that the Monroe Doctrine is a paramount interest of the United States, the infringement of which (adjudicated by American opinion alone) would warrant a declaration of war by the United States and that such a declaration would not constitute a breach of the Pact.

The second danger apprehended by the so-called "isolationist" school was that by signing the Pact the United States might be accepting some responsibility for future action against a recalcitrant state, whether in the form of military action to avert or stop hostilities, or of conference with other signatories and the concerting of diplomatic *démarches* which might be effective without resort to more vigorous policing measures; but any definite obligation in this regard was emphatically dismissed by Secretary Kellogg, whose immediate concern was to conciliate doubting senators.[4]

A third view was maintained by those persons who thought that in the event of the beginning of hostilities between other nations leadership or action of some sort by the United States would be desirable, that its nature would have to be opportunistic and that the tendency of the United States to express an interest in the keeping of the peace would help to deter a nation from making

[2] For the communications between the Secretary of State and the Committee on Foreign Relations of the Senate on this point, see the *Survey,* 1929, p. 405.

[3] Senator Borah's report to the Senate stated that in the Pact of Paris the "right of self-defense is in no way curtailed or impaired."

"The United States regards the Monroe Doctrine as a part of its national security and defense. Under the right of self-defense allowed by the treaty must necessarily be included the right to maintain the Monroe Doctrine which is a part of our system of national defense." *Congressional Record,* LXX, Part 2, p. 1730.

[4] *Survey,* 1929, p. 407.

the aggressive war envisaged by the Pact. To such persons it was inconsequential whether any move by the United States at a given juncture was or was not ascribed to the Pact, was or was not an "implementation" of it. The hesitation of international diplomatists to make suggestions of peace to belligerents for fear that the interposition might be resented by the belligerent holding the upper hand has disappeared before the reasonable certainty that modern war will engulf many states which desire to preserve their neutrality. The immediate interest of each nation in the preservation of peace, an innovation in formal diplomacy, was recognized in Article 19 of the Covenant which authorizes the Assembly from time to time to "advise the reconsideration by Members of the League of treaties which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world."

With this attitude it seems proper to identify Senator Borah, chairman of the Senate Committee on Foreign Relations. To the question, What will be the position and the action of the United States in case some nation violates the treaty? Will it simply be that of indifference? his reply was:

> Of course the United States would not be indifferent. It would be interested in keeping the treaty alive. In case of a violation or in case it was claimed there was a violation, the United States would determine for itself whether there had been a violation.[5] If it concludes the treaty had been broken, the United States would be entirely free as to its future course. It would then be in the same position and enjoy the same freedom of action as if the treaty had never been written. I would assume, however, that being interested in the cause of peace it would pursue such course through peaceful means as would best serve the cause of peace and maintain the treaty.[6]

A more forthright policy was attributed to him by the following:

> American foreign policy is often most easily comprehended by

[5] It will be noted that the Senator differed on this point from Secretary Kellogg, who asserted (see the *Survey*, 1929, p. 405) that each nation could construe the expression "self-defense" in its own case.

[6] *Congressional Record*, January 7, 1929, p. 1281.

reference to the ideas of the mid-victorians in England. John Bright denounced the conception of the balance of power in Europe much as Senator Borah has attacked the League of Nations but the motive in both cases was a keen desire to see the peace preserved.

The American policy in the new proposals that it has just put forward is one that might well recommend itself to a Morleyite English liberal. It holds that the moral sanctions of peace are the strongest and renounces war as an instrument of policy in international relations. But if war breaks out the proposals do not necessarily commit the signatory powers to mere passive isolation from the struggle. On the contrary the powers which have signed the American treaty may proceed to do what America did in the late war and use their influence for justice and peace in the way they think best.[7]

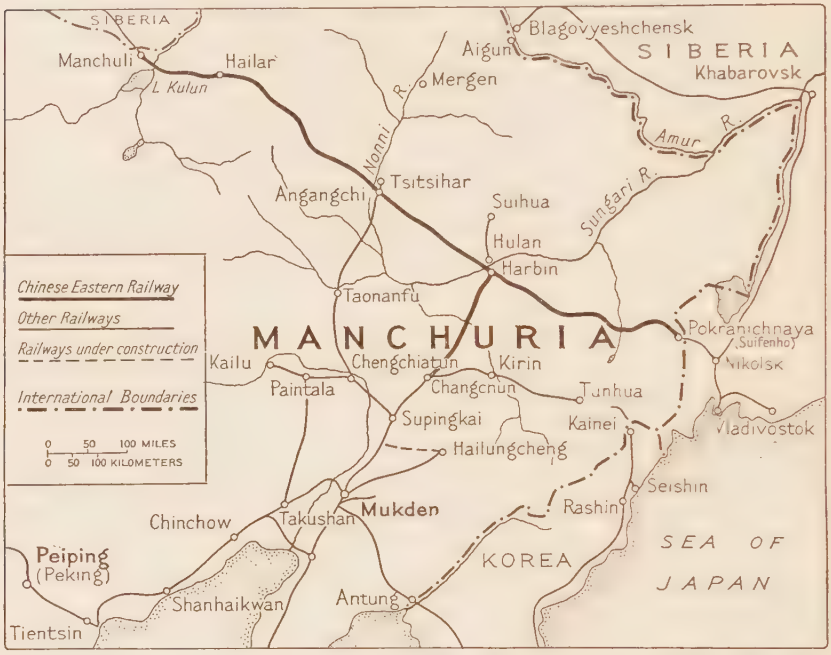
And by causing the article containing these passages to be printed in the *Congressional Record*[8] without a disavowal Senator Borah would seem to have accepted the imputation.

It would be logical and politically expedient for any American administration to connect measures inspired by this postwar view of the family of nations with a Pact which had met with the overwhelming favor of the American people, and this was the line adopted by Mr. Hoover as it became incumbent on his administration to take decisions in matters of high foreign policy. "It has been my cherished hope," he said in his Armistice Day speech, "to organize positively the foreign relations of the United States on this high foundation." He declared that since the requirements of the Pact were dynamic, the United States must be interested in seeing that other nations besides itself "shall settle by pacific means the controversies between them."

Even before this general declaration by Mr. Hoover, this policy of the administration had been expressed by the activity of the State Department in the Russo-Chinese dispute over the Chinese Eastern Railway. Inaction in the face of the dangers threatened by the controversy would have tended, in the judgment of the administration, to stultify the Pact of Paris and the hopes it had raised in the hearts of Americans. As Mr. Stimson explained toward the close of the controversy, "If the recent

[7] *Saturday Review,* London, April 21, 1928. [8] May 7, 1928, pp. 7963 ff.

events in Manchuria are allowed to pass without notice or protests, the intelligent strength of the public opinion of the world in support of peace cannot but be impaired."[9]



CHINESE EASTERN RAILWAY

A brief statement concerning the Chinese Eastern Railway is necessary to an understanding of the acts of the United States and of other Powers in relation to the Russo-Chinese dispute. The line of the present Chinese Eastern Railway, approximately a thousand miles long, was built between 1897 and 1903 at the extraordinarily high cost, as given in the Statistical Year Book of the Chinese Eastern Railway for 1929, of 397,663,314 gold rubles, or about $200,000,000.[10] For Russia the line reduced the railroading distance from any Russian point west of Manchuria

[9] *Press Releases*, issued by the Department of State, December 7, 1929.

[10] In addition, the Czarist government paid deficits of the road from 1903 to 1914 amounting to 178,479,617 gold rubles.

to Vladivostok by 568 miles. For China the line afforded a development of the fertile but largely unpopulated North Manchurian territory; more important for China was the fact that the concession for building the line was part of a secret agreement for the military protection of China by Russia in the event of further aggression by Japan after the Sino-Japanese war of 1895. The project was camouflaged by the incorporation in Russia of a private joint-stock company called the Russo-Chinese Bank,[11] to receive the concession. The Chinese Government was to contribute five million taels to the capital of the bank and to have proportionate interest in the profits and losses of the bank.[12] The bank, in which there was a considerable French share-holding interest, in turn formed a railway company, the Chinese Eastern Railway, and transferred to it the concession for the line. Both bank and railway were obviously agencies of the Russian Government. The gauge fixed was the five-foot gauge of the Russian railways.[13] At the end of eighty years the line was to revert to the Chinese Government without charge; after thirty-six years China might purchase or redeem the line upon repaying in full all the capital involved as well as all the debts contracted for it, plus accrued interest. The president of the company was to be a nominee of the Chinese Government.

The share capital of the Chinese Eastern Railway seems all to have passed into and to have been held by the Russo-Chinese (Russo-Asiatic) Bank. The road was built from the proceeds of a bond issue made by the railway company. Interest and principal were guaranteed by the Russian Government which paid the early deficits out of the Ministry of Finances. French banks, with some Belgian participation, took the larger part of these

[11] The name was later changed to the Russo-Asiatic Bank.

[12] Obviously another term of the proportion needs to be known to determine the Chinese share. That was to be fixed by the terms of a "special contract," which seems never to have been made public. The total capital of the bank, which began at six million rubles, rose eventually to fifty-five million rubles. Some authorities, including Gérard, in *Ma Mission en Chine,* allege that the Chinese Government never paid in the five million taels, but Weigh, in *Russo-Chinese Diplomacy,* p. 72, states that that amount "seems to have been paid out of the Russo-French loan to China after the conclusion of the Sino-Japanese War."

[13] All other main lines in Manchuria are of standard gauge.

bonds and the remainder appear to have been held in the Ministry of Finances. On the completion of the line a sum of five million taels was to be paid to the Chinese Government, but this still remains unpaid.[14]

On account of the chaotic political conditions in Eastern Siberia which followed the collapse of the Czarist government in 1917 and with the particular aim of bringing out of Siberia a force of Czechoslovaks who were interned there during the World War, and in order to prevent the capture by the Bolshevists of the enormous quantity of military stores at Vladivostok which the Allies were supplying to Russia through that port, the Allies in 1919 organized an expedition into Siberia and in connection with it created an Interallied Commission to control the operation of the Chinese Eastern Railway. Under this *régime* supplies for the line were furnished in part by Japan, approximately $5,000,000 in goods, and in part by the United States, approximately the same amount in cash.

On the American withdrawal from Manchuria and Siberia in 1920 the Russo-Asiatic Bank, which had been reorganized under French auspices when the Bolshevists came into power, made a provisional agreement with the Chinese Government permitting China, in view of the political disorganization of Russia, to take over "supreme control" of the railway pending the conclusion of an arrangement with a Russian government recognized by China. The bank at this time acknowledged that the ownership of the line belonged to "a lawful Government" of Russia.

At the Washington Conference the question of this line was raised, but Russia was not present and China objected to the exercise of foreign control. The conferring powers other than China adopted a resolution reserving the right to insist upon the responsibility of China as trustee for the stockholders, bondholders, and creditors of the Chinese Eastern Railway, i.e., in the interest of the French advances for building the line and the American and Japanese advances of $10,000,000 in 1919–22.

In 1924 the Chinese Republic and the Union of Soviet Social-

[14] Hawkling Yen at the Washington Conference, W. W. Willoughby, *China at the Conference*, p. 229.

ist Republics came together on all outstanding issues, among which the question of the Chinese Eastern Railway figured largely. The agreements made were provisional, and were never implemented. Two were made on May 31, 1924, between the Peking and Soviet governments. Russia was to take the responsibility for the claims of the shareholders, bondholders, and creditors of the Chinese Eastern Railway. China was to be allowed to redeem the line on terms to be settled at a future conference. The board of directors was to consist of five Chinese and five Russians; decisions of the board were to be by majority agreement. A Chinese was to be president of the board, Russians were to hold the offices of vice-president and manager, a Chinese and a Russian were to be assistant managers with duties to be defined thereafter by the board of directors, and the personnel was to be equally allocated between Chinese and Russian nationals. Article 8 of one of the agreements provided: "All the net profits of the Railway shall be held by the board of directors and shall not be used pending a final settlement of the present question." Certain clauses prohibited propaganda by either government directed against the other's political or social system. On account of the quasi-independence from Peking of the Mukden government under Marshal Chang Tso-lin, Russia found it expedient to negotiate a separate agreement with the Mukden authorities to the same general effect as that with the Peking government. These agreements were protested by the Russo-Asiatic Bank on account of the rights of the railway's shareholders and bondholders, and by the United States and Japan on account of their advances to the line while it was under Interallied control.

By these agreements China settled, in the main advantageously to itself, all outstanding difficulties with Russia. This was a relief to China, which was drawing away from the occidental powers and was on the point of obtaining Russian military and political assistance in the organization of nationalism and in giving supremacy to the Kuomintang party. Russia obviously benefited by regaining, through the medium of an explicit recognition by China, a half-interest in the line. Both countries jointly got rid of the French interests. Russia, it is true, assumed

responsibility "for the entire claims of the shareholders, bondholders, and creditors of the Chinese Eastern Railway incurred prior to the revolution of March 9, 1917." (This omitted the $10,000,000 of American and Japanese claims of 1919–22.) But the vagueness of Article VIII of the agreement as to the use of the "net profits" of the railway offered little hope to French claimants, and in fact the revenues[15] of the line were deposited in a Russian bank in Harbin and part of them thence transferred to Moscow at the pleasure of the Russian authorities, until increasing Chinese insistence forced in 1927 a division between Russian and Chinese banks. The agreement purported to relieve China of a responsibility to foreign interests which it had already recognized in the agreement with the Russo-Asiatic Bank of 1920, and left that responsibility with Russia which had already repudiated all such obligations at the outset of the revolution.

As early as 1923 Chang Tso-lin inaugurated a program of persistent effort to enlarge his share of control of the railway. First he tried to take over the land offices; later, after the signature of the 1924 treaty, he succeeded in taking over the education department; he commandeered the fleet of Sungari river steamers belonging to the Chinese Eastern Railway, and forced the management to deposit part of the railway receipts in a Mukden bank controlled by the Mukden government. The Russian and Mukden governments quarreled violently as to whether the line should continue to carry Chinese troops on credit, a practice which by 1925 had brought the Mukden government into debt to the railway to an amount between $11,000,000 and $14,000,000. This brought a countercharge from the Chinese to the effect that the Russian manager was extravagant and careless, that he issued large numbers of free passes to Communist agents and even used funds of the road for propaganda purposes, that he increased the number of Russian employees, and that he bought supplies from Russian firms at extortionate prices.

Both the Nanking and Mukden governments were in favor of

[15] That there are revenues for division must be due in some degree to the fact that no payments are made to "the shareholders, bondholders, and creditors" with whose capital the road was built.

taking entire control of the road, the latter government especially acting under the impetus of the new Manchurian *bourgeoisie*, nationalistic and eager for the rewards of control. Under this inducement Chinese police on May 27, 1929, raided the Soviet consulates in Harbin and Mukden, where they alleged Communist propaganda was being promoted, and on July 10 and 11 the Chinese president of the road dismissed Emshanoff, the Russian manager, the five Russian members of the board of directors, and the Russian heads of departments, explaining that this step was necessary to frustrate Communist propaganda and "to safeguard China's interests in the Chinese Eastern Railway." After an exchange of recriminatory notes, the Russian Government on July 18 broke off diplomatic relations and closed the border to railway communication; thereupon a concentration of troops took place on each side of the frontier at Manchouli, Chinese Suifenho (adjoining Russian Pogranitchnaya) and Blagovestchensk.

Statements by Chinese officials gave some ground for the belief that the Chinese *démarche* was part of China's general program of taking into its own hands the special treaty privileges held by foreigners. "There is nothing unusual," said President Chiang Kai-shek, "in the measures designed to bring the Chinese Eastern Railway into our hands. We first want to take over the railway and then take up the discussion of other questions."[16]

A Russian ultimatum was followed by a Chinese manifesto. Each government called the Pact of Paris to its aid. In its manifesto the Nanking government declared that China, while imbued with the spirit of the Pact of Paris, was prepared to take appropriate measures for "self-defense." In an interview on July 19 Commissar Rudzutak, acting head of the Soviet government, was reported as saying at Moscow that the financial interests of the Soviet government in the Chinese Eastern Railway were of less importance than the observance of the Pact of Paris. On July 22 the Chinese Government announced that "in the event of Moscow's deliberate violation of the Kellogg Pact" it would place the situation in the hands of the Council of the League "for investi-

[16] Quoted in Soviet Note to China, July 14, 1929.

gation and settlement," and the Chinese Minister at Washington declared that his government would not use force except in self-defense. Each side professed a willingness to negotiate, but the Chinese basis was the *status quo* while the Russian was the restoration of the *status quo ante*, and this raised the issue of control which was the heart of the controversy.

After holding conversations on July 18 with the diplomatic representatives of China, Great Britain, France, and Japan, the Secretary of State, Mr. Stimson, announced on July 19 that he was seeking coöperation in an effort to avert hostilities between China and Russia by calling their attention to the principle of the Pact of Paris, signed by them but not yet proclaimed as effective. He asked Dr. C. C. Wu, the Chinese Minister, to remind his Government that China had signed the Pact and that the United States and the coöperating powers earnestly desired that China and Russia settle their dispute without resort to arms. He also sent, through the French Government, a similar reminder to the U.S.S.R.

At the same time Secretary Stimson conducted conversations with Ambassador Claudel "inquiring into the practicability of adding to the Kellogg Pact provisions calling for investigation into the merits of the dispute and for a report which would be placed before public opinion." Apparently the idea was to begin with the Russo-Chinese dispute, though this was not stated at the time, and if such were the case, the Stimson proposal failed to elicit general approval when it was communicated to the other Powers.[17]

It was said to have won the approval of the French and Italian governments, but to have moved London, Tokyo, and Berlin to the suggestion that the time was hardly ripe for action, since it might be subject to misinterpretation.[18]

The Powers had perhaps too many extraterritorial interests in China to indulge in *Schadenfreude* at Russia's expense. Japan in particular, lessee of the Liaotung Peninsula, the South Manchuria Railway Company, and other railway concessions, extensive coal properties, etc., and therefore sensitive about international arrangements concerning Manchuria, is interested in

[17] *New York Times*, March 12, 1930. [18] London *Times*, November 27, 1929.

keeping any incident there within bounds, and in the clash between Russia and China directed its diplomacy to this end. In case the dispute had widened Japan would have had to reconsider the advisability of open intervention. "It is rather fortunate that Nanking was not in a position to force its design on Mukden," said a Japanese observer, "for if it had been able to do so a real war between China and Russia might have occurred in flagrant violation of the Kellogg Treaty and Japan would have had to intervene, whether Washington would or not."[19] The part that Japan played in the Russo-Chinese trouble is obscure; its realistic diplomacy was presumably at work while the Pact of Paris held the stage in international interest.

No declaration of war was made on either side; nor did Russia attempt to drive down the railway and occupy it to any considerable length (though this could easily have been accomplished), for it would have been inexpedient, with Japan in the offing, to venture on such an entanglement. Instead Russia prescribed war in small doses. Probably of little seriousness to life or property, these attacks ceased after a while; the Russians were waiting for the simmering pot which was brewing a civil war in China to boil over.

The outline of Sino-Russian hostilities became clearer when the civil war broke out. Attacks on Chinese Eastern Railway stations took place at both junctions with Russian territory and airplane raids were frequent and destructive; the mines at Dalainor, which supply half the Chinese Eastern Railway coal requirements, were put out of commission. The Russian campaign consisted of striking at border points where the Chinese, especially the higher officials, have important financial interests. At Fuchin, after driving away the Chinese defenders, the Russian raiders took possession of the local bank and of the flour mills, confiscating both money and flour. With the money they paid the Chinese coolie population to load the flour on a number of river barges for transport to Russian territory; the coolies received three dollars a day, or about six times the normal rate. When these tidings reached the retreating Chinese soldiers a number of them

[19] Dr. S. Washio in the *Trans-Pacific* (Tokyo), December 12, 1929.

shed their uniforms and returned to offer their services, which were accepted.[20] Both population and defenders cheerfully and remuneratively proceeded to help the enemy loot the township.

Moscow had the military operations well in hand and could continue to apply the nutcrackers until the Manchurian authorities capitulated. The Russian raids were almost continuous; the pressure never relaxed, and the Chinese were always either on the defensive or in retreat before a severe thrust. Evidence in fact accumulated that Mukden wished to give way. Chinese obstinacy came from Nanking, and, although in China's separatist condition this did not affect the local situation, to Russia's long-term position in North Manchuria it was embarrassing to have an enemy at Nanking because of the diplomatic prestige which Nanking enjoyed with the outside world. Chiang Kai-shek had also earned the enmity of Moscow for the way he had shorn the Nationalists of all their Bolshevist attachments. Now he was engaged in a life and death struggle to maintain his power as President of the Nanking government. Opposing him were Feng Yu-hsiang, a man who in the past had leaned heavily on Bolshevist advice and assistance, and the left wing of the Kuomintang which had shown itself sympathetic to the aims of the Third International. If either or both of these parties emerged as victor in the civil war the future of Russia in the Chinese Eastern Railway seemed less likely to be challenged.

This complex of factors accounts for the seemingly fantastic way in which Moscow began to take a hand itself in the Chinese war as the best way of waging its own. Strategy in Manchuria became mixed with diplomacy and confused with other immediate objectives. A Russian attack was launched, said the Mukden correspondent of the London *Times*, November 17, "with a view to preventing Chang Hsueh-liang (Governor at Mukden) from assisting Chiang Kai-shek." The same correspondent is authority for the statement that Moscow ignored Mukden's offer to reopen negotiations, and sent an answer only after it had assured itself that Manchuria was neutral in the anti-Nanking campaign. A show of force was apparently deemed advisable to

[20] *New York Times*, January 12, 1930.

persuade the Mukden enemy to remain on the Manchurian front as long as there was a possibility that he might be enlisted in support of Chiang Kai-shek in China proper.

In November the Russian forces moved with more persistence. The Chinese troops, inferior in numbers and greatly outclassed in equipment, training, and discipline, were quickly beaten and demoralized, and they fled along the line of the railway, looting the Chinese townspeople as they went.

Negotiations between the Soviet and the Mukden authorities then began, on November 27, by an exchange of notes, and a tentative understanding was reached on December 3 at Nikolsk Ussurisk, north of Vladivostok. "The news from Manchuria," commented the Tokyo correspondent of the *New York Times*,[21]

> confirms the Japanese anticipation that the Russians did not intend an invasion. The Russians apparently have not occupied any Chinese towns and are back on their own territory. They have given the Chinese a severe slap, humiliated them by disarming 10,000 troops, and scared Mukden into a settlement, all by a relatively small operation which led to no entanglements.

To this reverse may be added the reassertion of Russian influence on the Chinese Eastern Railway, a net loss in cash of 130 millions in defense measures and lost revenues, and considerable damage to the railroad, caused more by the Chinese than by the Russians.[22]

The second invocation of the Pact materialized on November 30. Toward the end of November, according to a statement by Mr. Stimson, "organized Russian forces" were in conflict with "organized Chinese forces near Dailinor [sometimes rendered Dalainor] in Northern Manchuria."[23] The July suggestion had been ignored and unofficial accounts stated that the Russians had penetrated two hundred miles into Manchurian territory. Again Mr. Stimson entered into consultations with the Washington representatives of Great Britain, France, Germany, Japan, and Italy. As these disclosed a "community of view with regard to the fundamental principles," a statement was issued by the United

[21] November 29, 1929.

[22] U.S. Department of Commerce, *China Monthly Trade Report,* February 1, 1930.

[23] *Press Releases,* December 7, 1929.

States on November 30 to China and to Russia *via* France again reminding them of their obligations under the Pact of Paris. Separate action was this time taken by other signatories. Of the five other pillars of the Pact, Great Britain, France, and Italy also made representations, while Germany and Japan refrained. Thirty-eight other signatories[24] lent their support to the *démarche* by individual representations.

The gist of the Stimson note or statement was as follows:

> On July 18 this Government took steps, through conversations between the Secretary of State and the diplomatic representatives at Washington of five powers, to see that the attention of the Chinese and the Russian Governments be called to the provisions of the treaty for the renunciation of war, to which both China and Russia were signatories. Both the Russian and the Chinese Governments then made formal and public assurances that neither would resort to war unless attacked. Since that time that treaty has been ratified by no less than fifty-five powers, including China and Russia.
>
> The American Government desires again to call attention to the provisions of the treaty for the renunciation of war, particularly to Article 2, which reads, "The high contracting parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise, among them, shall never be sought except by pacific means"; and the American Government takes occasion to express its earnest hope that China and Russia will refrain or desist from measures of hostility and will find it possible in the near future to come to an agreement between themselves upon a method for resolving by peaceful means the issues over which they are at present in controversy. The American Government feels that the respect with which China and Russia will hereafter be held in the good opinion of the world will necessarily in great measure depend upon the way in which they carry out these most sacred promises.

Russia, after protesting its own devotion to the paths of peace and the provocative policy of the Chinese Government in violation of treaties concluded on the basis of equality—a policy which culminated in the seizure of the Chinese Eastern Railway—asserted that the United States, Great Britain, and France

[24] As of December 12, 1929.

under similar circumstances would consider they had "sufficient cause for putting into force the reservations they made when signing the pact," meaning apparently the right to defend by force interests outside home territory.[25] Such reservations, it declared, have not Russian support. The note then accused the Nanking government of having

mobilized along the Soviet Manchurian Railway an army various sections of which, together with counter-revolutionary Russian bands included therein, made systematic attacks on the U.S.S.R., crossing the frontier and firing on units of the Red Army and frontier villages, robbing and violating a peaceful population, causing thereby losses of lives and property.

Despite frequent warnings through the German Government, these attacks did not cease, but rather increased and compelled the Soviet Far-Eastern army, in the interests of defense, protection of the frontier and the peaceful population, to take counter measures. Thus the actions of the Red army had due considerations of self-defense and were in no wise violations of any obligations of the Paris pact.

That cannot be said of armed forces in Chinese territory and Chinese ports of those powers who have applied today to the Soviet Union with identical declarations.

The Soviet Government states that the Government of the United States has addressed its declaration at a moment when the Soviet and Mukden Governments already had agreed to several conditions and were proceeding with direct negotiations which would make possible prompt settlement of the conflict between the Soviet Union and China.

In view of this fact the above declaration can not but be considered unjustifiable pressure on the negotiations, and can not therefore be taken as a friendly act.

The Soviet Government states further that the Paris pact does not give any single State or group of States the function of protector of this pact. The Soviet, at any rate, never expressed consent that any States themselves or by mutual consent should take upon themselves such a right.

[25] The Hankow incident goes counter to Mr. Litvinoff's charge. In that case the British did not use force to defend or to recover their concession interest, notwithstanding the Chinese violation of the treaties creating it.

The Soviet Government declares that the Soviet-Manchurian conflict can be settled only by direct negotiations between the Soviet Union and China on the basis of conditions known to China and already accepted by the Mukden Government, and that it cannot admit interference of any other party in these negotiations or the conflict.

In conclusion, the Soviet Government cannot forbear expressing amazement that the Government of the United States, which by its own will has no official relations with the Soviet, deems it possible to apply to it with advice and counsel.

Besides the fact that the Russians regarded[26] the application of the Pact of Paris to the Chinese Eastern Railway imbroglio as a maintenance of the *status quo* and as depriving them of the leverage they had for restoring the *status quo ante*, so that to acknowledge its application would be to accept defeat in token of amiability, they seem to have entertained suspicions as to the sincerity of the mediating powers. They suspected, first of all, that the Powers had in view the establishment of an international commission and the appointment of a neutral director of the railroad,[27] creating an international control over the line similar to that which the Allies had exercised during the 1919–22 intervention. This was bound up with the fear that a consortium of foreign bankers would at some time try to help China buy out the Soviet interests, a fear which has long been present in Soviet minds. Mr. Karakhan excluded the possibility of foreign financing in the 1924 agreement, which stated that the redemption of the railway could be made only with Chinese capital; Moscow, confident that the amount which China would have to pay to gain control is beyond the power of China to raise for many years to come, feels assured that until the scheduled reversion of the Chinese Eastern Railway to China a trans-Siberian link with Vladivostok is well insured under Russian control.

[26] For the grounds of the Soviet attitude, see the dispatches of Walter Duranty to the *New York Times,* July–December, 1929, and Louis Fischer, *Nation,* December 25, 1929.

[27] The appointment of a neutral manager whose duties he likened to those of a city manager of an American city was one feature of a solution proposed by Dr. C. C. Wang, former president of the Chinese Eastern Railway, in *Foreign Affairs,* January, 1930.

In the next place the Russians had in mind the claims of the United States and Japan against the line amounting approximately to $10,000,000. United States interest in this regard had been expressed to the Chinese Government in a note dated May 17, 1924, and reiterated on July 14, 1924, at the time China was coming to an agreement with the Soviet Government, and was another reason for Moscow's anxiety to keep the issue strictly Sino-Russian.

French interest in the matter was another ground for Russian suspicion. Repayment of the French money used by the Russians to build the Chinese Eastern Railway is still an issue between Paris and Moscow. The agreement by the French-protected bank in 1920, the reservation by the Powers at Washington "to insist hereafter upon the responsibility of China for the performance or non-performance of the obligations toward the foreign stockholders, bondholders, and creditors of the Chinese Eastern Railway Company," and the publication in 1929 of a statement to the effect that sixty per cent of the bank's shares were actually in French hands,[28] were all moves for asserting the French interest.

Misunderstanding over the chronology of events arose partly because of the uncertainty with which Sino-Soviet diplomacy was enshrouded and partly because of the necessity for the United States, not in diplomatic intercourse with Russia, to use France as the bearer of the Stimson statement. Dispatches mentioning the Soviet-Mukden negotiations were published in the United States on November 29. On November 30 the Stimson statement was dispatched to France for transmission to Moscow; Moscow says it was received on December 3. On the same day Moscow sent a reply, on the text of which as it appeared in the press Mr. Stimson made a public press comment, although "on December 6 Mr. Stimson had not yet received it officially through Paris."[29]

In his "amazement" that the United States should give "advice

[28] See pp. 409–410.

[29] Walter Duranty in the *New York Times,* December 9, supplied these dates. No dates are given in *Press Releases,* December 7, 1929.

and counsel" to a country with which it has no official relations, Mr. Litvinoff omitted to assert a common denominator of foreign policy between the United States and Soviet Russia, both of which have professed that the Pact of Paris is the pivot of their foreign policy. This failure gave Mr. Stimson an opportunity to bracket Great Britain, not the U.S.S.R., with the United States. The Secretary of State, in a public reply to the Litvinoff memorandum, quoted the Hoover-MacDonald declaration, and himself reiterated that the Pact of Paris was the instrument with which the United States "intends to shape its own policy." The comment of the Washington correspondent of the London *Times* was to the effect that if Mr. Litvinoff had taken a more reasonable attitude and recognized the good faith of the November statement by Mr. Stimson,

> a step would undoubtedly have been made toward that political recognition by this country which Moscow desires. It would be absurd not to assume that this had been considered by President Hoover and the Secretary of State (Mr. Stimson) and by them accepted as a not unwelcome contingency.[30]

While Soviet Russia curtly rejected advice and counsel, China, as the weaker vessel in need of helpful intercession, continued to cultivate it. Yet until persuaded by Soviet military pressure it refused, preliminary to negotiations, to restore the *status quo ante* which it had broken by a series of unpeaceful-like acts hardly in keeping with Article II of the Pact. The explanation of the inconsistency may be found in the Chinese effort to end the *régime* of special privileges enjoyed by foreign powers in China, one of which is Soviet joint operation of the Chinese Eastern Railway. When China in 1927 began its determined campaign to escape the obligations imposed on it by its so-called unequal treaties with foreign powers,[31] it received the assistance of the Bolshevists, who had their own ends in view. Although the agreement making the Chinese Eastern Railway a Russo-Chinese enterprise restored to the Bolshevists to some extent the special position in North Manchuria once occupied by the Tsarist gov-

[30] London *Times*, December 24, 1929.

[31] See pp. 139 ff.

ernment, Chinese nationalism, nevertheless, glowing with injections of Bolshevist propaganda, hailed the agreement in 1924 as "a great victory for China," because

> it opened a new era in the diplomatic history of China, placing the country for the first time on terms of absolute equality and reciprocity with a Western Power and furnishing a foundation upon which China has striven to build a new structure of her international relations.[32]

In time, as the effects of Bolshevist propaganda wore off, the Chinese began to look at the railway through Chinese eyes, and to realize that its operation jointly with Russia was as "intolerable" as any other special privilege in China. The Chinese case *vis-à-vis* Article II of the Pact of Paris is that the termination of the state of things obnoxious to them on the Chinese Eastern Railway, preventing the agreed parity in administration, could not be accomplished except by forceful measures; the Russians, adopting the device of not allowing meetings of the board of directors, in fact had vested all powers in the Russian manager instructed from Moscow, except as the Chinese could force concessions from him.[33] The Pact is thus faced with the objection often made to the League of Nations, in spite of Article 19 of the Covenant, that it has hitherto provided no way of correcting a troublesome but legally incontestable situation.

On the evidence of the first test the criticism was made that the Pact is deficient in two chief respects. First, as Secretary Stimson recognized in July, it can operate only from the basis of the *status quo*, and it provides for no means of restoring the

[32] Ken Shen Weigh, *Russo-Chinese Diplomacy*, p. 302.

[33] The agreements of 1924 were expressly declared provisional, the arrangement made to continue only until the conference provided for to settle definitely the relations between the two countries had taken action, and disputes were to be submitted to the two governments. The agreements were intended to establish joint control under a Russian manager, but in the event of difference as to what the treaty meant or as to the powers of the manager, the intention in the treaty was to refer the dispute to the two governments for adjustment, and it is at least arguable that the Chinese injured their case by precipitate action. Clearly, however, had the railroad been operated on any such joint basis with the right to refer disputes to the governments, it could not have been run successfully, if at all, and this would be the Russian position.

status quo ante when this has been destroyed by such force as the Chinese used. Second, the Pact provides no way "of correcting a valid but inequitable or impracticable treaty which may, as the Chinese-Russian treaty did in this case, provoke one nation to the use of force."[34]

The difficulties and inconveniences of relations with Russia and China under the Pact were foreseen by Sir Austen Chamberlain as far back as May 19, 1928. In a note to Secretary Kellogg he said:

> Universality would, in any case, be difficult of attainment, and might even be inconvenient, for there are some states whose governments have not yet been universally recognized, and some which are scarcely in a position to ensure the maintenance of good order and security within their territories.

He went on to suggest that the conditions for the inclusion of such states among the parties to the new treaty was a question to which "further attention might perhaps be devoted with advantage," adding, however, that this was a minor matter as compared with the more important purpose in view. As compared with other qualifications of the idea of universality, this doubt of Sir Austen's was so gentle that it was soon lost sight of. The effort to impose the Pact obligations on erring states exposed the inconvenience that the British Foreign Secretary foresaw. Representations to China under existing circumstances are rendered difficult by the lack of a central government whose writ would run throughout its *de jure* jurisdiction. As yet the capital with which the world maintains diplomatic relations is only the nominal center of national authority. Acceptance of the theory of Chinese unification under the Nationalists was probably occasioned by the need to recognize diplomatically some organ for the purpose of negotiating a long list of outstanding issues. A foreign complication served to disclose the seat of *de facto* authority, but no indication of this appeared in the Pact of Paris diplomacy.

Another aspect of the inconvenience of invoking the Pact in

[34] New York *World,* November 28, 1929.

relations with China is that China chafes at the extraterritorial system and regards the privileges enjoyed by foreign nationals in China as tantamount to an *Imperium in imperio*. The issue was brought to a head simultaneously with the outbreak of the Russo-Chinese conflict. Conversations on both subjects apparently proceeded at about the same time in Washington. Clearly they bore some relation to each other, since the Powers could not isolate the Chinese denunciation of a special privilege enjoyed by Russia when they themselves enjoyed similar privileges which were also threatened with denunciation.

Since war is precluded by Chinese impotence, the Powers have recourse to measures short of war in defense or furtherance of their Chinese interests. These measures include the landing of troops, invasion, the circumscribing of zones of hostilities, the massing of troops on frontiers, and the reinforcing of existing garrisons on Chinese soil. Some of these national weapons, like those used by the United States in the Caribbean, may fall in the twilight zone between war and peaceful settlement.[35] Incidents which in some countries might be a violation of Article I may indeed produce a peaceful settlement under Article II. Certain forceful Japanese actions in Manchuria, for example, have ended a local clash by promoting a peace conference. Undoubtedly the dispatch of a British expeditionary force to Shanghai in 1927 saved that city from bloodshed and chaos. And the Chinese villagers in North Manchuria, terrified by their Chinese defenders, hailed the Russian soldiers as deliverers.

Some of the difficulties of the Pact of Paris arise from the extraordinary variety of the circumstances under which hostilities may be begun. Those who are concerned in the strengthening of the Pact wish to supplement its formulas with some international organ in order that the Pact may be applied and fitted to the different occasions which arise. In Aristotelian phrase, the rigid rod of a verbal text should be supplemented by the leaden rule of equity. A host of other difficulties in the international

[35] In 1902 when Great Britain declared a pacific blockade against Venezuela in support of British claims, refusal of the United States to consent to a pacific blockade forced Great Britain to declare a war blockade.

world arise, like the dispute over the Chinese Eastern Railway, in some pre-war stage, and by the time one of the parties decides to employ military force to protect its interest, a third-party intervention to solve the original issue has become difficult if not impossible.

The most significant feature of this matter is the activity of the United States, enlisting the coöperation of other great states, in the effort to prevent war. If this is to be the policy of the United States, and that is seemingly the import of Mr. Stimson's reply to Mr. Litvinoff, then there is new support for the view that the Pact of Paris, though not in itself a complete instrument of international order, is one of the texts on which such an order may be built.

III.

POST-WAR FINANCIAL RELATIONS

CHAPTER ONE

THE YOUNG PLAN

PRELIMINARY NEGOTIATIONS

FOUR years of experience with the Dawes Plan persuaded the reparation creditor nations that the time had arrived to advance a step toward a definitive settlement with Germany. By nature and intent the Plan was transitory. In the words of the Dawes Committee it was "a settlement extending in its application for a sufficient time to restore confidence."[1] Pending that time the recovery of reparations was insured by a system of controls over German sources of reparations which transcended German sovereignty. Obviously this must be a temporary expedient to apply to a nation which was rapidly returning to the ranks of the great Powers.

So apprehensive were the reparation creditors that the Dawes Committee might try to "settle" the reparation problem that they limited its terms of reference to an inquiry into means for balancing the German budget and for stabilizing the German currency. Since measures to this end had already been taken by Germany, the function of the Committee must be sought elsewhere. Simply stated it was to provide a kind of truce for the political turmoil which had hitherto surrounded reparations. By choosing economic experts the governments eased the apparently insuperable obstacles of a purely political agreement, but the result, though produced by economists and business men, was perforce a "political measure taken in political circumstances for a political end."[2] The Dawes Committee itself admitted its political fetters when it stated that "political considerations necessarily set certain limits within which a solution must be found if it is to have any chance of acceptance."

So, with an eye on the German budget and currency, the Committee treated reparations as a current problem, and set up conditions for future study. It named no capital sum to represent

1 Reparation Commission. *The Experts' Plan for Reparation Payments,* p. 39.
2 R. E. C. Long, *The Mythology of Reparations,* p. 35.

the German debt, but outlined two kinds of annuities, leaving one series without a time limit. The total annuities were graduated up to a standard payment in the fifth year of 2.5 billion[3] marks, or $595 million. Of this amount $228 million represented 5 per cent interest and 1 per cent sinking fund instalment on $3.8 billion of mortgage bonds issued to the creditors by the German railways and German industry under the guaranty of the German Government. This series should therefore have been retired in about thirty-seven years. The remainder of the annuity, $367 million, came out of the budget and a transport tax, and was to be paid indefinitely.

The Germans were therefore uncertain as to the total debt they were called upon to shoulder. Save for minor adjustments this had not been changed since it was stated as 132 billion marks, or $31.5 billion, by the Reparation Commission in 1921. Instalments of 2.5 billion marks under the Dawes Plan would be about 2 per cent of 132 billion gold marks, or less than the sum required to pay interest alone, and at this rate Germany could never extinguish its debt, which would continue to mount with the addition of unpaid interest. The 1921 conception of reparations had thus been reduced to an absurdity; inevitably the Plan accustomed people to think of capital sums of lower magnitude. If the interest and sinking fund rates borne by the mortgages applied to the indefinite annuity, the total German debt could not be more than $10 billion, or a third of the 1921 sum. This figure was worked out in unofficial discussions of the Dawes Plan and helped to make the 1921 figure recede from view as anything but "stage" money. Nevertheless the amount of the German debt remained an unknown quantity, subject to final determination, and the claims of the creditors were not dead but sleeping.

Defining the New Attitude.

Save for Great Britain the European creditors as well as Germany had reason to require a definitive settlement. Great Britain was passive, not being anxious to disturb the *status quo;* the posi-

[3] Billion is here used in the American sense as 1,000,000,000, which in Europe is called a milliard.

tion almost satisfied the terms of the Balfour Note of 1922, which announced British policy as requiring only enough money from its European debtors and from Germany to cover its outgoing payments to the United States. This budgetary equilibrium might be upset by a revision of the German receipts, and British diplomacy would have the task of restoring the balance at the expense of the ex-Ally debtors, who were committed by agreement to make good any deficiency. In the British view the burden of proof was on Germany to show cause why the Dawes Plan should not be maintained, at least through the standard year, so that its capabilities might be assessed in the light of added experience.

Since 1922 realistic attitudes in Great Britain had changed in emphasis. In its original aspect the Balfour Note marked the last effort of the British Government to promote all-round cancellation of debts and reparations. This coincided with British self-interest. Overseas trade constitutes a greater proportion of Britain's activity than is the case with any other country. On a per capita basis its export of finished goods is four times that of the United States and twice that of Germany and France. British exporters felt that debt remission would help them out of their post-war troubles by releasing more buying power for British goods. But the failure of the cancellation movement, and the advent of the alternative principle of the Balfour Note—that Britain would receive from its debtors and Germany only enough to pay its debt to the United States—marked a change in British sentiment which may be described roughly as a shift from markets to budgets. To the taxpayer a diminished contribution from war debts and reparations represented so much more out of his pocket for national upkeep. Since 1922 his problems had become so pressing that when A. G. Gardiner called the Balfour Note "a mood of financial bravura" he expressed a widespread feeling. Retreat from the doctrine, though encouraged from time to time by the delay in French ratification of the British debt, was, however, hardly practicable; there must be no deficit, that was all. At Chingford on October 22, 1928, Mr. Churchill, after saying that Great Britain was on the point of achieving the position

aimed at in the Balfour Note, stated, "We shall do everything in our power to maintain that position in the future."

Before it would acquiesce in any revision of the German debt Great Britain required of France, the chief reparation beneficiary, an assurance that this position would be safeguarded. Mr. Churchill obtained such assurance from M. Poincaré on October 19, 1928, when it was also decided that the creditor shares as fixed at the Spa Conferences of 1920 would not be disturbed.

To the other main European creditors of Germany the position was different. They had debts to England as well as to the United States and had therefore to rely entirely on Germany for cover. Except for France they had reached definitive agreements for meeting their war debt payments. France was under pressure either to ratify or repudiate its debt agreements; therefore the need for ending the tentative *régime* of German reparations was probably more urgent to France, which received over 50 per cent of German payments, than to Germany. In fact, the impetus to revision, which came from the Agent General for Reparation Payments, Mr. Parker Gilbert, derived its principal support from France.

Bluntly, the French wished to secure from Germany a capital sum instead of relying entirely upon annuities. This could be done by putting reparations in commercial form. German reparation bonds could be issued to world investors, the proceeds paid over to the creditor governments, and the reparation debt thus transformed from obligations to foreign governments to obligations to private persons. In 1917 the same idea had been suggested in connection with the Ally debts held by the United States; a clause in the war-loan act conferred on the Treasury the power to sell any of these foreign obligations and apply the proceeds to the reduction of domestic debt, but for many reasons the provision was not carried out.

France did not need the proceeds of such loan operations to augment its cash resources. It had a surfeit, not a shortage, of capital, and at the end of 1928 its banking position was the strongest in Europe, measured in gold holdings and balances

abroad. In part the French attitude was explicable on the ground that France required a shift in the relationship of debtor and creditor. A debt owed by one nation to another holds the possibility of friction and consequent downward revision; a debt owed by a nation to investors at large is on a more permanent footing and affords less likelihood of political trouble.

This, then, was the core of French policy in respect of a revision of the German liability. On its satisfaction depended French willingness to

(1) resign the lien of Rhine control;
(2) reduce its bill for restoring the ruined areas of France which was still charged against Germany;
(3) ratify its war debt agreements with Great Britain and the United States.

Restoration of Confidence.

Preparatory to the initiation of discussions leading to a conference it was necessary to find out whether confidence in Germany had been sufficiently restored to permit of the reconsideration of reparations. This was not hard to establish. A favorable verdict had already been rendered by the Agent General for Reparation Payments in his report dated December 10, 1927. The Plan had worked without a hitch. Payments had been made regularly and the Transfer Committee in Berlin had had no occasion to invoke its powers to suspend transfers in case of a threat to Germany's exchange stability. Creditor-debtor relations had greatly improved. On their part the Germans had afforded the maximum of coöperation; under Mr. Gilbert the impingement of the Dawes mechanism on German sovereignty had created no friction.

Mr. Gilbert stated that further experience was needed before full judgments could be formed, but as time went on it became clearer that "neither the reparation problem, nor other problems dependent upon it, will be finally solved until Germany has been given a definite task to perform on her own responsibility, without foreign supervision and without transfer protection." This, he thought, should be constantly borne in mind by the reparation Powers.

The Agent General's words did not fall on deaf ears. On February 2, 1928, M. Briand in the Chamber of Deputies declared his expectation that the year would not pass without producing some attempt to bring about revision. Discussions were expedited by Mr. Gilbert in conversations with Allied statesmen and in his interim report of June 7, 1928, when he returned to his reminder of the task yet to be undertaken.

To Germany a final settlement of reparations was no whit more desirable than the liberation of the Rhineland. Dr. Stresemann made clear the German standpoint during his visit to Paris in August, 1928, to affix the German signature to the Pact of Paris; he argued with the French the necessity of getting rid before the scheduled date of what he had once called "that iron curtain." This resurrected at once the question of sanctions in case of German default. In the French scheme Rhineland occupation was the ultimate guaranty of reparations, and the purpose of the army on the Rhine was to speed up reparation payments. Old ideas of security also came back, casting doubt on the bona fides of German policy and complicating the purely reparational aspect of the Rhine occupation. Sanctions and security—these were vital words in the French lexicon, and they occurred frequently in the speeches of French statesmen during 1928.

Problem of Sanctions.

Sanctions in the Treaty of Versailles were built up in Articles 428–432 in accordance with French desires; no contingency seems to have been overlooked. Article 429 stipulated that if Treaty conditions were faithfully carried out, the forces occupying the Rhineland would be successively withdrawn in three stages. The third stage was to expire in 1935, when German territory would be free. But this was dependent on evidence of German good will. Lack of guaranties satisfactory to the creditors might induce delay in leaving the last zone, and this qualification was tightened by Article 430, which also provided for entire reoccupation, even after the expiration of the fifteen-year period:

> In case either during the occupation or after the expiration of the fifteen years referred to above the Reparation Commission finds

that Germany refuses to observe the whole or part of her obligations under the present Treaty with regard to reparation, the whole or part of the areas specified in Article 429 will be re-occupied immediately by the Allied and Associated forces.

As a trading point in a new reparation deal, the "or after" of Article 430 served to retain value in what by the efflux of time would have been a wasting asset. But Germany, said Dr. Stresemann, in a speech in the Reichstag on November 19, would never "purchase evacuation with financial compensations."

Undoubtedly the fear of trading prompted the Germans to resist the linking together of reparations and Rhine evacuation. Their standpoint in this respect found a certain amount of support in Great Britain, from Mr. Churchill among others. In the House of Commons on November 8, Mr. Hore-Belisha asked him whether the reparation settlement was bound up with the question of the evacuation of Rhine territory. Mr. Churchill answered: "No, that is a separate but also a desirable object."[4] The British Chancellor evidently responded in an unguarded moment, for it seems difficult to square this view with the Treaty; certainly the two are related. Nor did there seem much point in the concurrent endeavor of a section of German opinion to reject the warrant for collecting reparations because it denied war guilt. "The word 'reparation' since the war has acquired a special meaning," says Carl Bergmann, "and is understood to signify the obligation of the vanquished, and of Germany in particular, to repair the damages suffered by the victors;"[5] discussion of war guilt was therefore a blind alley down which to lead those who were pursuing reparations.

On firmer ground were those Germans who urged the proofs of German good will as arguments in favor of ending the occupation. Provided these were forthcoming, evacuation before the scheduled time had in fact been promised on June 16, 1919, in a public statement over the signatures of President Wilson, M. Clemenceau, and Mr. Lloyd George which declared that "the Allied and Associated Powers did not insist upon making the pe-

[4] *Hansard,* November 8, 1928, Col. 217.
[5] Carl Bergmann, *The History of Reparations,* p. 3.

riod of occupation last until the Reparation clauses were completely executed because they assumed that Germany would be obliged to give every proof of her goodwill and every necessary guarantee before the end of the fifteen years time." "Every proof of her goodwill" had been furnished by Dr. Stresemann and by German confidence in his policy, which was based on the fulfilment of Treaty obligations. "Every necessary guarantee" seemed to reside in the Locarno Pact, which had induced the evacuation in 1926 of the first of the occupied zones. And both good will and guaranty had presumably been acknowledged in the admission of Germany to the League of Nations. In these circumstances it appeared anomalous to maintain a force of occupation on German soil and inconsistent to refuse to apply to the rest of the occupied zones the precedent established by the evacuation of the first zone.

The 1919 statement owed its inspiration to Article 431 of the Treaty, reading:

> If before the expiration of the period of fifteen years Germany complies with all the undertakings resulting from the present Treaty, the occupying forces will be withdrawn immediately.

In the discussions this Article was subject to a cross fire of interpretations of which the target was the word "complies." According to one school this connoted "has complied," and, according to the other, "is complying." But if, as the French saw it, the former were intended, or the complete execution and discharge of Germany's obligations, an irreconcilable element entered into the time schedule for the liquidation of Rhine evacuation and of reparation. According to this thesis liquidation of both affairs should have been synchronous, but such a view gained no validity from the Treaty; other factors being constant, the freeing of German territory was fixed for 1935 and the discharge of reparations for 1951, subject to an extension of time.

Diversity of opinion prevailed in Great Britain as to the meaning of "complies."[6] Mr. Churchill had gone so far as to say that there was no relation at all between the evacuation of the Rhine-

[6] House of Commons, December 3, 1928.

land and reparations. This was an extreme position. Other members of the Cabinet agreed with the opposition parties in refuting the French interpretation. Sir Austen Chamberlain, however, accepted it without question, not indeed on sentimental grounds, but on legal grounds provided by "the highest legal authorities in England." None the less it aroused as much criticism as his announcement of the Anglo-French Naval Compromise. "Complies," to non-legal England, meant to act in accordance with something—in this instance, with the obligation to pay reparation—and to this meaning the lexicographers, if not the lawyers, agreed. And the general feeling was that Germany was indeed complying or acting in accordance with its obligations. No other course could be found in the reports of Mr. Gilbert since the inauguration of the Dawes Plan.

Appointment of Committee.

Hairsplitting of this nature went on in public while in private the Allied statesmen continued to explore the possibilities of revision of the German debt. In the statesmen's conferences international bankers began to be included. Among the French this portent of a cash yield helped to lessen the emphasis on sanctions. But, in spite of a general European support of the German request for an abridgment of the Rhine occupation, they insisted on the prior treatment of reparations. A compromise was found in the application to diplomacy of the principle of relativity. On September 16, 1928, at Geneva, a formula was agreed upon whereby Great Britain, France, Japan, Italy, and Belgium acquiesced formally in Chancellor Müller's request to open negotiations on Rhine evacuation on condition that a committee of experts were appointed simultaneously for the purpose of recommending a revision of the Dawes Plan. The Rhineland was promptly lost to view until the reparation experts had finished their work, when the parallel lines converged.

Five months elapsed before the reparation experts were assembled. Respective positions had to be clarified and stated so that there should be no mistake about the terms of reference on which the proposed committee should work. The creditors and Germany

kept in constant communication on these desiderata; the former required assurances of sufficient funds to offset their war debts and to compensate them for some of the cost of reconstructing the devastated areas, while Germany remained noncommittal. Finally on December 22, 1928, M. Poincaré, in the name of the creditors, and the German Ambassador in Paris reached an agreement on the mandate for the committee of "independent financial experts," who were intrusted with the "task of drawing up proposals for a complete and final settlement of the reparation problem." Their proposals "shall include a settlement of the obligations resulting from the existing Treaties and Agreements between Germany and the creditor powers."

The path to a conference had to be cleared of another obstacle, namely, the manner of the appointment of experts. This served to keep up an exchange of views until February 11, 1929. On that day the experts opened their sessions in Paris. The experts from Belgium, Great Britain, France, Italy, and Japan were appointed by the Reparation Commission on the nomination of their respective governments; those from Germany by the German Government, and those from the United States by the Reparation Commission conjointly with the German Government, without action by their own government in their selection. The delegates, freed from the limitations that bound the Dawes Committee, were thus enabled to make a direct frontal attack upon reparations, and the fact that the Germans were copartners in the enterprise gave ground for the general indorsement which greeted M. Briand when he said that "the final liquidation of the war has at last really begun."[7]

GERMANY'S ABILITY TO PAY

The Dawes Plan laid down the principle of a maximum payment which Sir Josiah Stamp said was to be "a physical or economic fact conditioned only by economic limits."[8] The limits were a stable currency and a balanced budget. To this proposition the

[7] *New York Times,* September 17, 1928.

[8] Stamp, Pirelli, and Chalendar, *Reparations Payments and Future International Trade,* International Chamber of Commerce, Paris, p. 7.

Germans agreed but added that the maximum payment to be defined by the new committee should also take into account the necessity of preserving German living standards. Rival industrial nations, who were the nations represented on the committee, were not likely to quarrel with the German thesis.

There was another limiting factor on a maximum payment. The Dawes Plan stated:

> For the stability of a country's currency to be permanently maintained, not only must her budget be balanced, but her earnings from abroad must be equal to the payments she must make abroad, including not only payments for the goods she imports, but the sums paid in reparation. Nor can the balance of the budget itself be permanently maintained except on the same conditions. Loan operations may disguise the position—or postpone its practical results—but they cannot alter it. If reparations can, and must, be provided by means of the inclusion of an item in the budget—i.e., by the collection of taxes in excess of internal expenditure—it can only be paid abroad by means of an economic surplus in the country's activities.[9]

If this were the end in view, it had not been achieved, for the Dawes annuities had not been paid abroad by means of "an economic surplus in the country's activities." Instead of a surplus there had been large deficits. These were due, however, to an influx of goods on credit. Up to the end of the fourth Dawes year, or August 31, 1928, Germany had paid in reparations $1.25 billion but had taken loans from abroad of $1.5 billion. These loans placed both capital and foreign exchange at Germany's disposal for the double purpose of raising and transferring reparations.

Recovery of Germany.

For the most part the loans entered Germany in the form of raw materials and other goods which gave rise to further production. In consequence Germany had greatly increased its productivity. Like the witch in *Hänsel und Gretel* the creditor nations

[9] *The Experts' Plan for Reparation Payments,* VIII. The basic principles of Germany's annual burden, p. 20.

had insured their reparations by first fattening Germany; before the Dawes Plan they had been trying to eat a skeleton. Inevitably the effect of the new treatment was to leave a widening margin between the amount taken out of Germany by way of reparations and the values left in. In the assessment of the enhanced values inside of Germany lay the measure of German capital rehabilitation.

Capital was still alleged to be short. Capital shortage, however, is a relative term, and must be appreciated in the light of the demand for money. In Germany this is abnormal. The abnormality in the German situation is such that it is not too extreme a figure of speech to say that Germany is being reconstructed from the ground up. The terms of the peace treaty, which disrupted the German economy, and currency depreciation had an effect similar to a cleansing fire, which by destroying makes way for new foundations. Reference here will be limited to the effects of the depreciated currency. Industry came out of the inflation comparatively free of capital charges. Having retired its debt with practically valueless money, it felt no hazard in creating new charges for expansion programs, especially as "much of the new plant will pay for itself in four or five years, and some in two or three."[10] An interest rate of 9 or 10 or even 12 per cent in these circumstances is relatively low, and will be levied without compunction and paid without much protest. This abnormal element in Germany's demand for capital must be constantly borne in mind. There is no evidence that for ordinary current purposes Germany fares worse or better than its neighbors.

A more normal approach to the problem of assessing Germany's recovery lies along the path of national income. Estimates are highly diverse but they have one story to tell, a story of growth. And the achievement has been marked by no apparent tightening of the German belt. Expenditure, both national and local, is not restrained; loud and continuous are the complaints of business over the expense of government and of social welfare, and the Agent General himself thought fit to remind the Government in 1927 of excessive milking of the Federal Budget in the

[10] James W. Angell, *The Recovery of Germany* (1929), p. 212.

interests of the states and communes. Nor has there been any reduction in the standard of living. At the end of 1928 Professor Schumpeter thought the advance of real wages since the War would be found to be about 20 per cent, "a performance beaten only by America."[11] This estimate does not agree with that of other economists. Professor Angell, for example, after taking account of all the factors that go into real wages, says that "the general standard of living of the working classes . . . seems a little higher than in 1913."[12]

Professor Angell[13] calculates that the German national income in 1928 was about 65 billion marks, or 15.5 billion dollars. Since 1913, he says, it has shown an increase of 55 per cent, or after allowing for the rise in prices, about 12 per cent. The true measure of Germany's progress is to be obtained from these figures. The standard reparation annuity pales into insignificance beside them. It is only 3½ per cent of Germany's national income.

In this growth of income may be traced the development of domestic capital formation. This is an aspect of German financial recuperation which the Agent General calls "the central problem of the German economy."[14] Only as Germany builds up its own supply will it free itself of the need to import capital. Agreement is impossible to establish on the question of the extent of Germany's accumulation of domestic capital. The figures which the Agent General used were those of the Reichs-Kredit bank, an institution indirectly owned by the German Government, which recorded an increment for 1927 of 7.6 billion marks, or three times the amount of the standard reparation annuity. Probably because of the controversy which the publication of this estimate aroused, the bank in its next annual report refrained from making any statement for 1928, though in its report for the first half of the year it expressed the opinion that capital building had proceeded at the average rate of 1927.[15]

[11] Speech reprinted in *Geschäftlichen Mitteilungen* of the Reichsverbandes der deutschen Industrie, January 16, 1929.

[12] *Op. cit.*, p. 270. [13] *Ibid.*, p. 320. [14] *Report*, December 22, 1928, p. 115.

[15] See *Wirtschaftliche Lage Deutschlands*, published half-yearly by the Reichs-Kredit-Gesellschaft, Berlin.

Since the 1913 figure was 8 billion marks, or 12 billion at present prices, the extent of capital formation is around two-thirds of the pre-war level.

No dispute prevails that domestic capital is being formed at a rapid rate. Dr. Ernst Wagemann, President of the German Statistical Office, and a strenuous critic of the Reichs-Kredit bank estimate, admits "a marked upward tendency," though he adds that in the last five years the amount has been not more than 20 billion marks,[16] or three times the total reparations annuities over the same period. The reserve was growing so fast that the foreign commissioner of the Reichsbank reported in 1928 that appreciable amounts of German loans sold abroad would appear to have been repurchased on German account.[17] At the time of the Paris conference it was therefore permissible to look forward to a period of declining interest rates in Germany, even on the basis of existing commitments, and to see in the capital creation inside Germany an indication that Germany would soon become comparatively independent of foreign funds.

The Transfer Problem.

According to the Dawes Plan the raising of reparations was only one aspect of the problem. The other aspect was the transfer of the annuities across the frontier, or the exchange of marks into the currencies of the creditor nations. It is generally held that the problem of transfers had been simplified by the loans. The creditors had supplied the foreign currencies wherewith Germany, at the expense of further debt creation, had paid reparations. Granted that without difficulty Germany could raise the money, and about this there seemed little question, could it buy the foreign currencies without upsetting its exchanges? The theory here is that to pay a foreign debt over a long period Germany must earn, not borrow, a foreign credit by selling goods and services. Only in that way could it achieve the natural economic surplus postulated by the Dawes Plan. In the national account

[16] *Journal of Commerce* (New York), Special German Number, December 17, 1929.

[17] *Report* of the Commissioner of the Reichsbank, December 10, 1929, p. 31.

Germany must show an excess of sales of goods and services, instead of the excess of purchases which prevailed up to 1928. Obviously if foreign loans could be dispensed with, purchases would decline, and the national account would probably show an excess of sales, or an export surplus. In 1926 indeed this was achieved. Loans, or incoming goods on credit, declined, and an export surplus resulted. But capital was still short and imports on credit had to be resumed, with the result that in 1927 and 1928 the accounts showed a heavy excess of purchases.

The tendency, as has been shown, is to become independent of loans, but while this would cut down imports it would not help to develop exports. And if Germany is to pay reparations by earning foreign currencies, instead of getting them on credit, it must win from abroad on balance the sums called for to pay its debts. Germany can earn foreign currencies in two ways, through the sale of goods and through the sale of services. First as to goods. Germany's case is peculiar among international debtors because its means of payment so far as they are expressed in commodities are peculiar. Debtor nations as a rule contract debts in mechanical goods or so-called means of production and repay them with raw materials and foodstuffs. To creditors this kind of payment is acceptable; they have large populations and industries to feed. Germany's means of payment on merchandise account, however, consist mainly of manufactured articles. To what extent this is the case may be gathered from the fact that in 1928 72 per cent of German exports consisted of finished goods.[18] Certain classes of finished goods are of course acceptable to the creditors but as a general classification finished goods are precisely the products which the principal creditors have in abundance. By accepting them the creditors, under the exigencies of the capitalistic system, would have to restrict the activity of their own plants and throw their own people out of work. The dilemma is urgent with highly industrialized creditors like Great Britain. Thus, to keep out competitive goods, which are sometimes debt payments, tariff walls have been raised, and the dilemma has been

[18] League of Nations, *Memorandum on International Trade and Balances of Payments*, 1926–28; I, *Review of World Trade*, p. 26.

transferred to Germany to dispose of its merchandise elsewhere and pay its debts by triangular methods. Germany, for instance, could sell electrical machinery to a Central American country which that country could pay for by sending coffee to one of Germany's creditors and thus cancel German reparation to the amount of the sale.

This situation is at present more a tendency than a fact but the tendency will grow as the industrial nations reëquip themselves. If it wishes to dispense with foreign loans Germany will have to press its goods into neutral markets. Creditors are not yet extensively protecting their export markets as they do their home markets, though this was done in the days of mercantilism, but they have as keen a desire to make customers of the neutrals as have the Germans. By triangular methods the field of debt payments is expanded, but at the same time the field of trade conflict becomes more contentious. Germany is pressing so hard to capture neutral markets that it is driving out its rivals who are also its creditors. Dyes are among the capital goods which Germany disposes of abroad. An item from the reports of the United States Department of Commerce shows the manner in which German sales are being organized. Forecasting a year of intense competition in China from German manufacturers of aniline dyes and indigo, it says, "Representatives of the German dye trust have continued to be particularly active in pushing sales . . . for which purposes special salesmen and demonstrators have been assigned."[19]

In the highly competitive market for finished goods the German exporter must be equipped with a competitive price. His price troubles are caused by the disparity between prices of raw materials, which Germany largely imports, and of finished goods, which Germany largely exports. Germany complains that it has to pay excessive prices for its raw materials because in certain cases these are monopolized either by non-German combinations, as with copper, or by colonial proprietors, as formerly with rubber. Its troubles in this respect had a public airing at the Paris

[19] United States Department of Commerce, *China: Monthly Trade Report,* January 1, 1930, pp. 85–86.

conference. The German delegates, in a reparation plan of their own, provided for certain measures to be taken which would insure German payments. "Germany," said the memorandum, "must be placed in a position to build up for herself once more her own sources of raw materials beyond the seas which can develop with her own means of production and her own currency under her own responsibility."[20] This was promptly denounced as an attempt to revise those sections of the Treaty of Versailles which deprived Germany of colonies.

Another trouble in maintaining a competitive price is finance. In disposing of capital goods the industrial nations have generally to furnish long-term credit. To meet his rival on even terms the German exporter must therefore have access to capital at reasonable rates in order that he may be carried while he is awaiting payment for his shipments. If he has to wait three years for his price an interest rate of 10.5 per cent, which was the average cost of money in 1928, would amount to a third of it. Under pressure to earn foreign money the Germans have to court markets with cut prices. This means that more goods have to be sold in order to obtain a given amount of foreign money. Consequently price-cutting to the point of dumping, or selling at a price below production costs, is a not unfamiliar aspect of German commerce. If the Germans decide to dispense with loans this will become more than ever a factor in international trade. In these cases the German exporter recovers from the home consumer the losses he sustains in selling abroad. The domestic price of iron, for instance, is roughly 30 per cent higher than the world price.[21]

State of Exports.

So difficult is the problem that while the volume of German production has more than regained its pre-war level, this is not the case with the volume of exports. Allowing for the fact that money has lost about 40 per cent of its pre-war purchasing power, the 1928 statistics showed a decline in the actual volume

[20] London *Times*, April 26, 1929.
[21] The *Economist* (London), January 18, 1930.

of Germany's trade since 1913 of 18 per cent, as compared with 14 per cent for the United Kingdom. Over the same period the trade of the United States rose by 66 per cent.[22] The figure for the United Kingdom is significant of the fact that lack of markets is not peculiar to Germany. Absorption in war-making broke the monopoly which Europe had hitherto enjoyed as a universal provider of goods fabricated by machinery. Industrially backward countries which had been stimulated to buy these commodities were thrown back on their own resources. They began to embark on plans to manufacture footwear and textiles and many other articles in the general category of consumption goods. On their return to peace-time pursuits the ex-belligerents found that their pre-war foreign markets had been partly preëmpted by domestic enterprise in those markets, and post-war salesmanship had to surmount tariff walls sheltering these new industries.

Still the export trade of Germany makes a showing which is amazing when considered against the background of the losses in territory and resources which it sustained under the Treaty of Versailles. Compared with the three-year period 1911–13, the export figure for 1928 showed a decline of only 4 per cent; the parallel decline for the United Kingdom was 6 per cent. German exports in 1928, moreover, showed a gain over 1927 far in excess of that registered by other exporters. Even in textiles the increase was impressive. But the main group to advance was that which includes machinery, particularly iron and steel manufactures and electrical and other machinery, which are still the monopoly of highly industrialized nations; between 1925 and the first half of 1929 the share of this class of product in the total German exports of finished goods rose from 50 to 56 per cent.[23] To the German advantage is the widening of the market for capital goods in consequence of the world advance in industrialization.

Export progress owes a great deal, of course, to reparations

[22] United States Department of Commerce, *Commerce Yearbook,* 1929, XXI, pp. 769 ff.

[23] R. C. Long, *Journal of Commerce,* Special German Number.

itself. Reparations may be delivered in cash or kind, but in the final analysis the cash payments involve transfer of goods and services, and therefore are an indirect form of deliveries in kind. In consequence complaints of "reparations competition" are heard from rival industrialists, who lament the non-commercial basis of the original fixation of reparations. "The fact that in reparations there is only a receipt, and no exchange of goods and services, has been the crux of the problem," says Lord Melchett.[24] The receipt by Italy of so many tons of coal by way of delivery in kind cuts down by a corresponding amount its purchases of coal from South Wales. A further aspect of "reparations competition" is that deliveries in kind may produce paid-for orders for replacements. The possibilities of such further trade may be gathered from the fact that at the end of 1928 French railroads were being electrified through the system of deliveries in kind.

The main reason for Germany's export success, however, is connected with Germany's competitive ability in manufacturing. Industry was aided by the orgy of inflation, which wiped out industrial debt, and thus enabled new industrial programs to be started. But the basic impetus to this rationalization lay in the disruption of economic Germany by the terms of the peace treaty, which tore up the close-knit fabric of the German economy to such an extent that integral parts of an adjusted industry ceased to be German. In short, a new order had to be fashioned. Rationalization had therefore a clear field, as is shown by its definition in Germany, where it means "organized effort to increase the total efficiency of human economic work and its factors, labor and capital, energy and material."[25] By including all problems in production, administration, and distribution, rationalization not only forces a process to work and pay but also affects the national balance. A high degree of economic centralization has resulted; this, incidentally, is in part responsible for the excessive unemployment in Germany.[26]

[24] Lord Melchett, *International Industry and the Young Plan,* p. 10.
[25] Otto Bredt, *Factory and Industrial Management,* November, 1929.
[26] *Manchester Guardian Commercial,* June 6, 1929.

In the United Kingdom, where the War did not physically disrupt the country, little has been done beyond repairing old economic equipment. In its survey of British metal industries, published in 1928, the so-called Balfour Committee[27] exposed the obsolescence of this equipment. Certain branches of the industry were declared to be in the pre-war condition of the continental industry. Blast-furnace output is about 125 tons per furnace per day, or less than the average German output in pre-war years. The new German furnaces

> hold up to 850 tons of material or more at a single charging, and can produce, depending on the ore used, 1,000 to 1,200 tons of iron a day. A single block of four such furnaces (with one always held in reserve) could produce at capacity about 10 per cent of Germany's entire present output.[28]

In the most important coking center in England only two or three out of thirty plants are not obsolete, judged by German standards.[29] The Balfour Committee[30] pointed out that the modernization of the continental plant was stimulated by currency depreciation. When it returned to the gold standard Great Britain, on the contrary, did not indulge in currency devaluation but restored the pound sterling to its pre-war parity with gold. Hence British industry is burdened with prior charges which are swelling production costs, though of course the British currency policy was beneficial to the *rentier* class, which in Germany was partly obliterated.

Rationalization to correct the backwardness of British industry would meet with psychological as well as financial obstacles. Such obstacles in Germany were all swept away by the fact that the provision of a new layout for industry was a condition of the continuance of national existence. German industrialists have come into possession of a youthful plant which in alliance with a seasoned experience in management gives Germany an advantage in competition for markets.

[27] Committee on Industry and Trade: *Survey of the Metal Industries,* Part 4, *A Survey of Industries.*

[28] Angell, *op. cit.,* p. 109.

[29] The *Economist,* January 25, 1930.

[30] *Survey of the Metal Industries,* p. 26.

Germany can obtain foreign money by selling services as well as commodities. Before the War income from such services as investments abroad and shipping gave Germany a high position among world creditors. The War dissipated its investments and the peace settlement destroyed its shipping, but it is rapidly rebuilding these assets. The growth of shipping is an example of the progress so far made. In 1920 J. M. Keynes wrote: "Thus the German mercantile marine is swept from the seas and cannot be restored for many years to come on a scale adequate to meet the requirements of her own commerce."[31] In that year Germany was left with a merchant fleet of 649,000 tons, as compared with 5,300,000 tons in 1913; on July 1, 1929, the total was 4,025,000 tons, or about 75 per cent of the pre-war tonnage, and it ranks second to the United Kingdom in shipbuilding under construction. To shipping freights must be added the sums from other so-called invisible exports. Tourists, who are ready contributors of dollars and other needed currencies, are being attracted to Germany. Moreover, Berlin hopes to regain its pre-war position as an earner of banking and insurance commissions from abroad, and also to obtain the business enjoyed in pre-war days by Vienna. In sum, the ability of German citizens as shipbuilders, bankers, and insurance agents, together with the charm of the German countryside, should attract to the country a goodly share of the world's "invisible" export trade.

The Unanswered Question.

Thus the answer to the fundamental question which faced the new committee of experts, namely, what was the maximum annuity which in normal circumstances Germany could pay without disturbance to its budget and currency, was still being sought. Germany's capital needs from abroad were obviously approaching saturation. From the internal standpoint a stoppage in loans would mean only a slowing down in a rate of growth. Not so obvious was its ability to obtain enough earned foreign currencies to serve its obligations. To some economists there was no problem in transfers; their theory, which received much attention during

[31] J. M. Keynes, *Economic Consequences of the Peace,* p. 61.

the conference, was that if reparations could be collected by sound tax methods, remission abroad followed as a matter of course, a view which controverted the economics of the Dawes Plan by amalgamating into one process what the committee considered the two "distinct though related" processes of raising and transferring reparations. The Young Plan, however, maintained the theory of a transfer problem, and provided for continued protection.[32]

Naturally the Germans insisted on the twin relation of loans and reparations in the transfer process. Without the loans the Germans would never be able to obtain the foreign currencies to pay their creditors. It therefore behooved the experts, stated Dr. Schacht, to consider "in the light of the express presumption of the Experts (Dawes) Plan that in the long run transfers can only be made from surpluses of the balance of payments, whether the position justifies further transfers from the borrowed funds."[33] The position, according to Dr. Schacht, was that not only could Germany not pay the Dawes annuity, but that it was laying up additional burdens through serving the foreign loans, which were an increasing debit item in its balance of foreign payments. In 1928 remittances on interest and sinking fund account amounted to about half of the reparations annuity.

THE CONFERENCE AND THE PLAN

It is related of M. Poincaré that he once remarked to a committee of technical experts appointed by the French Government: "You have treated this problem as if it were nine-tenths technical. It is nine-tenths political." Similarly reparations were still nine-tenths political, even when subject to expert examination, and toward the end of the committee's work Sir Josiah Stamp, one of the British delegates, stated that he and his colleagues had been reduced to finding a solution for the political aspect and part of the financial aspect of reparations. "We are all aware every moment," he said, "that the economic aspect may any day

[32] See pp. 459 ff.

[33] *Report* of the Reichsbank, 1928.

within the next sixty years upset all our calculation."[34] This aspect is concerned as much with what Mr. Young calls the "enervating" effects of receiving war debts and reparations as with paying them.[35]

Linking Debts with Reparations.

In their report the experts referred to this difficulty, though in milder terms than Sir Josiah Stamp used. Indorsing the caveat of their predecessors on the Dawes Committee, and under German pressure, they stated that political factors had necessarily set certain limits to an acceptable solution.[36] Their approach had already been affected by political principles and policies which had to be safeguarded, reconciled, or cast aside. It was no less difficult to find a common denominator of the creditors' requirements of Germany than it was to assess the ability of Germany to fulfil them.

Of dominant importance was the new political definition of reparation. Under the Treaty of Versailles the German debt was made up of two categories, one for damage to civilian property and the other for pensions and separation allowances. The latter accounted for two-thirds[37] of the $31.5 billion total which in 1921 the creditors expected Germany to pay. Plainly it had lost all significance, if for no other reason than its magnitude. So it passed quietly out of the categories, making way for an entirely new category, namely, War debt cover. This became the most important charge on reparations.

After Great Britain in 1922 funded its American debt, the other debtors had to follow suit and come to an arrangement with the United States and, in consequence of the Balfour Note, with Great Britain. The natural corollary was that the European debtors expected Germany to cover these outpayments. To non-German Europe War debts and reparations were what the Balfour Note called "a connected series of transactions," economi-

[34] *New York Times,* March 7, 1929. [35] *Ibid.,* March 25, 1930.

[36] Reparations Commission: *Report of the Committee of Experts,* Part 3, Attitude of the Committee, p. 8.

[37] John Foster Dulles, in an article in *These Eventful Years,* I.

cally and politically. France, indeed, wished to insert into its American settlement what was known as a safeguard clause, making continued payments contingent on receipts from Germany. The United States refused to be party to the liaison, and the Franco-American debt-funding agreement does not include it. In Great Britain's agreements with its debtors a clause appears allowing for automatic readjustment of payments in case future changes in either reparations or the American debt disturb the equilibrium. This was the expression of the Balfour Note doctrine, at once a safeguard to Great Britain and an assurance to its debtors that any concessions by the United States would be passed on to them. If, however, German reparations should not do their part in maintaining the balance, then the deficiency would be charged to the debtors.

In view of the Balfour Note, which made Great Britain merely the channel to the United States of its receipts from Europe, Europe's claim on Germany was one for cover for the European War debt to the United States, though no one tried to narrow down the position so simply. The presence of the American delegates and the opposition of their government to the establishment of any such liaison forbade the naming of the obvious. Instead the experts employed the euphemism that cover was required for the "outpayments" of Germany's creditors, and these "outpayments," or the American debt, like Peter the Great's walking stick, constituted the most persuasive delegate.

From this purely financial demand for enough from Germany to offset the American debt the European experts proceeded still further to attach debts to reparations. While avoiding explicitness so as not to injure American sensitiveness, they sought to draw up a scheme which in operation should parallel as closely as possible the American settlements. Thus was reinstated whatever politics had been taken out of reparations by the success of the Dawes Plan.

Maneuvers to make reparations lie in this Procrustean bed started with the pressure to correlate terms of payment. At first the Germans were loath to acknowledge the link, arguing that this would violate the time limit provided by the peace treaty;

subject to extension the discharge of Germany's obligation was set for 1951, while War debt payments run on to 1988. But the Germans finally acquiesced in the coupling of the two series of debts. "All representations on the part of the German experts that Germany had nothing in the world to do with the Allied debts," said Dr. Schacht, "broke down on the arbitrary political attitude of the other side."[38]

Germany did not acquiesce without a price. Obviously an extension of the schedule meant the lightening of the annuities; for reasons of equilibrium, apart from the politics still attaching to capital sums, the annuity was the thing to Germany as well as to the ex-Allies. The two points of view met over the prospect of future debt remission by the United States. Germany could not undertake to keep up payments for over thirty-seven years on the level demanded by the creditors; the creditors would not budge unless they obtained concessions on their outpayments. Provision was therefore made that all European claims exclusive of outpayments should be satisfied within thirty-seven years. If any remission is accorded during that time Germany will benefit to the extent of two-thirds of the remission. After that time, when practically the sole charge on Germany will be for meeting the outpayments, the whole of any relief accorded by America will accrue to Germany. Moreover, in case of partial remission of debt by America in the first thirty-seven years, the debtors will retain only a fourth part of their third, the balance to be set aside and accumulated for the purpose of assisting Germany in meeting its liability in the last twenty-two years. Through these provisions, which appeared in a special memorandum not signed by the American experts, the ex-Allies Europeanized the doctrine of the Balfour Note. If Germany wishes to reduce its debt, it must first persuade the United States to reduce its claims on Europe. To keep the question open as a German-American affair the creditors fixed that part of reparations subject to postponement and therefore immune from commercialization at an amount almost identical with that of the European debts to the United States.

[38] Speech before the *Deutsche Industrie und Handelstag,* Munich, June 28, 1929. Reprinted.

Claims of the Creditors.

Additional to the demand for War debt cover were specific and strictly reparational claims. Great Britain had a claim for the deficit which had accumulated between its incoming and outgoing payments. This was due to the fact that Great Britain started to pay its American debt before its debtors began their remittances. At the time of the conference the difference, inclusive of interest at 5 per cent, amounted to £196,351,000, or close on a billion dollars. Who should make up this difference—the ex-Allies or Germany? If the ex-Allies, then their claims on Germany would have to be correspondingly extended. The struggle to assess a reasonable schedule would be impossible if the British Government insisted on striking a global as distinct from a current balance.

Like the 1921 German debt the deficiency was felt to be "stage" money, but it remained a talking point throughout the conference, when it was tacitly abandoned. Under the Young Plan Great Britain receives no reparations in the last three years, but returns certain sums, corresponding to the annuities which it will receive from its European debtors, to the reparation account, because during those years it has nothing to pay to the United States.

Italy came to the conference asking for an increased share of reparations, if not at the other creditors' expense, then at Germany's, insisting that its 10 per cent quota under the Spa percentages was an underestimate of its War losses. Italy is intent on preserving a global balance between its incoming and outgoing payments. Though on current account it was receiving an excess beyond its remittances to the United States and Great Britain, the present value of the two series of payments, according to the official actuaries, corresponded almost exactly in value. Unofficial Italian authorities,[39] disputing the mathematics of the officials, contended that Italy had not secured War debt cover, and their figures may have contributed to the Italian demand that its receipts from Germany should be enlarged. A higher percentage

[39] See Constantine McGuire, *Italy's International Economic Position,* Institute of Economics, Washington, p. 403.

would certainly be required in the event of a reduction in the German annuities. The other main reparation creditor, Belgium, wanted a settlement of a claim arising out of the seizure of Belgian francs and their replacement by valueless paper marks during the German occupation. This claim was settled direct between the two parties on July 13, 1929, after the Young Conference had ended.

Then there were claims for reparation proper. Of these the French case for restitution of devastation costs was by far the most important. At Caen on October 28, 1928, M. Poincaré had insisted that France would require compensation from Germany in addition to cover for debt commitments. He had reiterated the demand in a statement on the eve of the experts' meeting. Detailed estimates of physical damage sustained by France were submitted to the committee by the French experts. Their figures were for the actual cost of reconstruction from 1915 to 1928 based on the average gold value of the franc in each of these years. According to these calculations the cost of the restoration, plus interest payments on the money borrowed internally to meet the expenditures, was around $10.5 billion. This of course did not make allowance for the wiping out by currency devaluation of that part of the debt raised from French investors.

Insistence that this bill must be met out of reparation payments would have put upon the Germans a burden equal to its total obligation as implied in the Dawes Plan. Since there could be no reduction on cover for War debts, all the burden of sacrifice, if sacrifice had to be made, would have to fall on reparation proper. And the main factor was the French claim. To persuade France to cut down its charge the experts had to take up the question of commercializing reparations. Logically this should not have been considered before the schedule had been fixed, but not the least of the complications attending the experts' deliberations was that all sides of the problem were explored simultaneously, because of the disparity between the creditors' expectations and the Germans' assessment of the maximum payments they could make.

Commercialization did not have a strong appeal for Germany. Under the Dawes Plan the whole of its debt was postponable by

virtue of protective clauses which allowed of suspension of transfer in case of a threat to German exchange stability. Transfers were effected through the creditors' organization in Berlin. From the standpoint of sovereignty this was unsatisfactory to the Germans, but it afforded a guaranty to the German economy by vesting in the creditors the responsibility of transferring payments without upsetting the exchanges. It had also the advantage for Germany of attaching to reparation an uncertainty and the possibility of future readjustment. Uncertainty of course inhered in the fact that reparation was a political debt, that is, a debt between governments, but the transfer provisions had the effect of keeping the uncertainty under constant notice.

By scattering the intergovernmental debt among individual investors throughout the world, commercialization would deprive Germany of the benefits of possible future readjustments. The Germans therefore fought hard to keep within a low limit the amount commercialized, so that a high proportion might remain in a political state and be subject to a moratorium. In the final agreement they succeeded in having about two-thirds of the annuities kept in postponable form, while the French won their point that the contribution for War damage should be put in such shape as would enable them to reap as early as possible some quota of their capital outlay on that account. In return they trimmed their bill of costs. As expressed in annuities, discounted at 5½ per cent, this equaled approximately $1.65 billion, as compared with the original bill of $10.5 billion. In due course the amount so commercialized will be mobilized in bond issues. The remainder of the debt, or that for War debt cover, is to be kept in a political state.

Defining the Dawes Plan.

Pressing their individual claims with one hand, the creditors at first tried with the other to justify a raising of the fixed annuity under the Dawes Plan. Superimposed on the fixed annuity of 2.5 billion marks were two provisions allowing for change. One would alter the sum receivable from Germany as the value of gold in

terms of commodities rose or fell beyond a specified margin. By this means of adjustment the physical burden on Germany would have been unaffected by an important change in prices.

In a world of fluctuating price levels this proviso was of importance. The money claim can be liquidated only by delivering goods or services and the burden of such deliveries varies with the price to be obtained for them in the creditor country to pay a constant debt. The variability of burden due to changing prices may better be understood when expressed in money terms. The lower the price the more goods and services have to be delivered. Thus the burden of a debt of $100 fixed in 1913 would have fallen to $52 in 1920, rallied to $63 in 1922, and fallen to $56 in 1929, to the advantage of the debtor. The Dawes Plan would have made more or less constant the burden of payment by German production. No modification of Germany's liability on this score, however, was contained in the Young settlement. Those who hold the view that prices are destined to fall might conclude that Germany had made a concession, but to the European creditors the arrangement aligned the position with that of the debt settlements which contain no price-fluctuation clause.

The other clause to be resurrected for the purpose of enlarging the reparation pool was that which provided for a bonus out of German recovery, to be fixed by a composite index of prosperity. Early in the conference the device was made to yield figures which would have increased the Dawes annuity from 2.5 billion marks in 1929 to 2.575 billion marks in 1930. In some quarters an attempt was made to capitalize future instalments from German recovery so as to arrive at a starting point of 3.8 billion marks in any discussion of the Dawes Plan.

Finally any fixation of reparations had to run the gauntlet of the Dawes Plan principle of commensurate taxation, which states that the German scheme of taxation should be at least as heavy as that borne by the peoples of the Allied countries. At such a dictum there was little to cavil, but the trouble was to work it out. Data, premises, statistical method, date of computation—all were at variance. On a *per capita* basis the British were probably the most

heavily taxed people.[40] Their problem has been aggravated by the restoration of the pre-war parity of the pound sterling. Taxation for payment of interest to holders of internal debt was considerably lightened in France by the simple process of marking down outstanding liabilities through the devaluation of currency. Naturally the British emphasize the contrast. To the French a comparison of the tax burdens is unfair save on the basis of national income; a tax of $75 is more than twice as heavy to bear for a person with $5,000 a year as it is for a person with $10,000 a year. The methods used for computing national income are so confusing as to be practically incomparable. Within a country methods and therefore estimates vary widely; the conflict in Germany on this subject has already been observed.

The case of Germany, moreover, has an aspect not shared by other countries which do not tax their people for remissions abroad. Such taxes are lost to the country, but if a nation taxed itself 100 per cent of tax resources for home services this would mean redistribution of wealth and not national loss. For this and other reasons Professor Sering[41] says that the commensurate burden of taxation cannot be ascertained, and Rufus Dawes[42] doubts whether "any economist could produce a definite table of commensurate burden that would be accepted by any other economist." Obviously the only way of making any contrast is to inquire into standards of living. Such a study would have been too big a task for the reparation experts. That the principle was considered, together with capacity to pay, is stated in the Report, but, in view of the other factors involved, it could scarcely be a sole determinant of the revision, and had to take its place with the other elements out of which a compromise was fashioned.

It had been vaguely felt, but not expressed, that a revision upward from 2.5 billion marks could hardly be carried out. The fact that the creditors had shown a desire to revise the Dawes Plan was a tacit acceptance of the theory that a revision downward from 2.5 billion marks could be the only possible outcome.

[40] For estimates see Angell, *op. cit.*, p. 317.
[41] *Germany under the Dawes Plan*, p. 70.
[42] *The Dawes Plan in the Making*, p. 137.

To the outside world the super-annuities had always had something unreal about them and this was never so obvious as when an attempt was made to express them in figures.

Summary of New Plan.

For four months the experts wrestled with these elements. Crises were frequent. Several times the conference trembled on the brink of a breakdown, but finally, to the relief of Europe, which had become uneasy over the trend of events, a plan was evolved. It was signed on June 7, 1929, and, though officially called the New Plan, immediately became known as the Young Plan, after the American chairman, Owen D. Young, who later stated that it was neither a political nor an economic solution, but a compromise between the two.[43] The following outline, as indeed the whole discussion, is restricted to its main features.

Under the New Plan the Dawes Plan ceased to operate on August 31, 1929, the end of its fifth year. The new scheme starts with a seven-month payment on March 31, 1930, so that the new annuities may coincide with the German fiscal year. The first ten years are so graduated as to enable Germany to finish the task of internal recuperation. The new schedule is endowed with the missing link of the Dawes schedule—a term of years. This is divided into two periods. The first covers thirty-seven years ending in 1966 and the second another twenty-two years ending in 1988. Germany pays varying annuities in the first period averaging 1,988,000,000 marks ($477 million). Annual interest payments on the Dawes Loan of 1924 bring this up to 2.05 billion marks ($492 million). Thus the entire amount falls well short of the fixed annuity under the Dawes Plan of 2.5 billion marks ($595 million). The year 1966 closes that part of Germany's liability which is referable to reparations proper; for the next twenty-two years its payments correspond solely to the outpayments of its creditors plus its payments to the United States on account of mixed claims.[44] Discounted at 5½ per cent the annuities have a cash value of about 37 billion marks or $9.25 billion, or less than one-third of the capital sum named in 1921.

[43] *New York Times,* March 25, 1930.

[44] See *Survey,* 1928, pp. 471 ff.

Germany recovers its financial autonomy. For the specific mortgages imposed by the Dawes Plan upon certain of its resources the new scheme has to a large extent substituted a general lien upon its national credit. Germany will take the full responsibility for raising reparations, and the semi-receivership, administered by foreign controllers, is abolished. Germany also accepts the responsibility of transferring the annuities. Under the Dawes Plan Germany's obligation was fulfilled when the required amount of marks was paid into the Agent General's account at the Reichsbank; the annuities were transferred by the Agent General and the Transfer Committee. Under the Young Plan Germany will now transfer the annuities in foreign currencies to a new agent, the Bank for International Settlements[45] (the headquarters of which has been located at Basle), which will channel the payments to the European creditors. The Bank, which is controlled by an international board representative of Germany equally with other nations, will also supervise and assist in the mobilization of the commercialized annuities. It will also have some secondary functions of a business nature, and since it will set aside a percentage of its profits to help meet the last twenty-two annuities, these functions will be of importance to Germany.

The sources of reparation are cut down from four to two. The transport tax is dispensed with and the mortgage on industry abolished. The yield of 660 million marks ($157 million) from the railways is retained, but the bonds provided for under the Dawes Plan are done away with, together with the accompanying foreign management and control, and in their place a direct tax is imposed by the Germans, the receipts being guaranteed by the German Government; this tax will be paid for the first thirty-seven-year period and during that time the private and independent character of the railway company is to be preserved. The remainder of the annuities is to be paid out of the budget and is the variable item.

That part of the annuity, roughly a third of it, which comes

[45] The Bank for International Settlements will be treated in a future volume. In the meantime the reader is referred to *The Bank for International Settlements,* by Paul Einzig (Macmillan).

from the railway tax is non-postponable,[46] and represents accordingly the amount which may be commercialized. To meet France's needs it was agreed that after providing for the Dawes Loan of 1924 almost five-sixths of it should go to France. Ultimately bonds to the capital amount, about $2.5 billion, are expected to be distributed in world markets. The balance of two-thirds is subject to postponement of transfer. By giving at least ninety days' notice the German Government may suspend transfers on part or the whole of this amount for a period not exceeding two years during which time Germany will pay to the Reichsbank account of the B.I.S. the required sums in *Reichsmarks*. These sums may be used by agreement in financing special programs of deliveries in kind. Fifty per cent of the actual payments in *Reichsmarks* susceptible of postponement of transfer may, moreover, be postponed for one year after such postponement of transfer has been in effect more than a year. On the declaration of any postponement the Bank is empowered to convene a committee which shall investigate and report upon the circumstances of postponement. It shall also make recommendations of remedial measures. For these and other reasons Mr. Lamont says the Bank offers "greater protection to German economy than the old Transfer Committee or any suggested body could offer."[47]

The outstanding aspect of the settlement is that the reparations total has at long last been reduced to a figure in relative accord with the terms and the spirit of the Fourteen Points. Germany, it is true, has paid away large sums, but the new schedule has brought down its payments to a level which does not cover the total bill for War damage and omits altogether the amounts demanded as the equivalent of pensions and separation allowances.

Accepting the Plan.

At the signing of the compact, the chief French delegate, M. Moreau, said that it was "not wholly satisfactory to any, but highly satisfactory to all."[48] This was an understatement as to

[46] At the Hague conference the non-postponable annuity was later extended to 700 million marks to meet Great Britain's wishes.

[47] Thomas W. Lamont, *Foreign Affairs,* April, 1930.

[48] *New York Times,* June 8, 1929.

Great Britain, which had three grievances. First, the experts had interfered with the quotas fixed at Spa in 1920 and reaffirmed by M. Poincaré and Mr. Churchill on October 19, 1928. If the whole period is taken into account, the experts, in accommodating the Italian demand, had reduced slightly the British quota, but in return for this concession the British were to get rather more than their share in some of the early years, so that throughout the period they might be in a position to carry out the current requirements of the Balfour Note. Secondly, the British protested against the manner in which the Young Plan had carried on the system of reparations in kind. For some time past this direct form of reparation competition had irked British exporters. The Young Plan modified the system by providing for the gradual reduction of deliveries until they ceased altogether in ten years, save for the special programs allowed during a postponement of transfers. It did not meet the British wish to prohibit reëxport by the receiving countries, or prevent the possibility of unlimited increase of deliveries on the occasion of a moratorium. Finally the British protested against their virtual exclusion from the category of recipients of non-postponable reparations. In the House of Commons on July 27, 1929, Mr. Snowden, Chancellor of the Exchequer, likened the non-postponable annuities to "first-class debentures," whereas, he added indignantly, the rest might be compared to "the ordinary shares of a perhaps not very sound concern." These three objections were expressed vehemently throughout Great Britain. The Balfour Note represented sacrifice enough and no further concession would be tolerated. Since the sacrifice had not been appreciated, perhaps it would be better to claim release from its self-denying clauses. In a speech in the House of Commons on December 26, Mr. Churchill, now in opposition, commended such a policy to the new Labor government. Armed with this nation-wide support Mr. Snowden denounced the Young Plan as presented at The Hague in August, 1929, to representatives of the interested governments. After many stormy sessions his objections were met within the framework of the Plan. Perhaps of main importance were the alterations in the scheme of deliveries. Not only were reëxports prohibited, but it was

agreed that any special programs during a moratorium should be submitted for approval to a committee convened by the Bank for International Settlements. This committee, which will be representative of each of the signatory governments, will take decisions by a majority vote, but if any member considers that the interests of his government are prejudiced by any such decision, his objection will be referred to arbitration.

The parallel negotiations on the evacuation of the Rhineland converged with the negotiations over the Young Plan. Compared with the tussle over the acceptance of the Plan, the negotiations were harmonious. It was decided to begin evacuation in September, 1929. After ratification of the Young Plan the withdrawal proceeded without interruption and was to come to an end in June, 1930, twelve years after the armistice.

Another symbol of reparation guaranty remained. This resided in Article 430 of the Treaty of Versailles, giving the creditors the right in the event of Germany's "refusing during the occupation, *or after*," to observe the whole or part of the (reparations) obligations under the present Treaty, "to reoccupy the whole or part of the Rhineland immediately." So protracted were the negotiations over the British objections to the Young Plan that this question had to be taken up along with other unfinished business at the second Hague conference in January, 1930. The signing of the Young Plan left Article 430 in mid-air, because it provided for the wind-up of the Reparation Commission, by whose decision alone the Article could be brought into operation. The Germans asked that France should agree never to use sanctions in case Germany were unable to make full payments under the Young Plan, but the French would not agree. The Germans then embarrassed French dialectic by producing their agreement with the United States, which had just been negotiated to regulate payments to the United States in harmony with but administratively separate from the Young Plan. Germany was therein treated on the same plane as other War debtors of the United States, reliance being placed on its "full faith and credit"[49] as the sole security and guaranty of the debt. The clause was a

[49] *Senate Document* No. 95, Seventy-First Congress, 2d Sess., Clause IV.

handle to the German delegates, and they made the most of it. If, they said, the War is really at an end, why not do as the Americans did, and rely on our word? But the French were too intimately connected with Germany and reparations to follow the American lead, and whatever the delegates' own views, they had to take account of feeling in the French constituencies. Helped by a coincidence with the Hague conference of a German Nationalist movement to reject the Young Plan, they therefore insisted upon and obtained an exchange of declarations between the creditor Powers on the one hand and Germany on the other which permitted the creditors to "recover full liberty of action"[50] in case a wilful default should be established by the Permanent Court of International Justice. This provision of course has nothing to do with the kind of economic situation which would warrant the postponement of transfers by Germany and the examination of Germany's position by the Bank for International Settlements.

"Liberty of action" held only one meaning to those who had gone through the occupation of the Ruhr in 1923, but German fears were considerably appeased by the debates in the French Chamber of Deputies when France ratified the Plan on March 29, 1930. The Tardieu government, headed, curiously enough, by the man who is reputed to have been responsible for the sanctions clauses of the Treaty of Versailles, then declared that its action in case of a German default would be governed by the terms of the League Covenant and the Pact of Paris. "Liberty of action" in 1930 was a different thing from what it was in 1923.

RÔLE OF THE UNITED STATES

Of least importance in the relation of the United States to the reparation problem was its own share of reparations.

The American proportion arose out of two distinct charges against Germany. One was for the cost of maintaining, at the request of the Allied governments and of Germany, the American

[50] Cmd. 3484, Misc. No. 4, 1930, Annex 1, p. 29. All the documents pertinent to the acceptance of the Young Plan are printed in French, German, and English in *Entwürfe zu den Gesetzen über die Haager Konferenz* (Berlin: Reichs Verlagsamt, 1930). Also see Cmd. 3598, 1930.

army of occupation at Coblenz. Liquidation of this item was one of the conditions of the 1921 Treaty of Berlin between the United States and Germany and was defined in 1923 by an executive agreement negotiated with the occupation powers by Eliot Wadsworth, but in view of the comprehensive nature of the payments contemplated under the Dawes Plan, the claim was written into the so-called Finance Ministers' agreement, which was signed at Paris in 1925 to settle the question of the distribution of payments under the Dawes annuities. The second item was a 2¼ per cent allotment of the Dawes payments for the satisfaction of War losses sustained by American citizens. These are judicially established by a Mixed Claims Commission formed under agreement with the German Government. Thus, though remitted to the United States through the Dawes organization, both claims, strictly regarded, were as unrelated to reparations as the Belgian mark claim. As of September 1, 1928, $40.9 million had been received toward liquidation of the army cost account of $247.9 million, leaving $207 million still unpaid. Out of $164.9 million due for claims, $21.1 million had been received, leaving a balance of $143.8 million.

Reports from Washington during the first two months of the conference stated that the administration would resist any attempt to alter these payments.[51] Since all of the creditors were intent on preserving their claims, this passed without comment. But the point duly arrived in the deliberations where a solution depended on drastic reduction of claims. The other creditors looked to the United States to make proportionate sacrifices. The expectation put Mr. Young in a dilemma. His function had developed into that of mediator between Germany and the European creditors and his efforts were directed toward bringing both parties within a debatable area of figures. But his hands were tied by the Allied expectation; creditors and debtor had seemingly come to the limit of the concessions they were prepared to make. A rupture, frequently foretold, had already been anticipated by the start of a "flight from the mark," both by Germans and by the foreign bankers who supplied Germany with foreign capital. Such a rupture would open a Pandora's box of problems,

[51] *New York Times,* April 16, 1929.

and since these would affect the United States no less than Europe, a movement started in Washington to come to Chairman Young's rescue.

No action could be taken in respect of the mixed claims. They constituted money due to American citizens direct. On the bill for army costs 30 per cent had been paid, compared with about 90 per cent of the other creditors' army costs; nevertheless if any cut were to be made, it would have to be at the expense of this item. The impasse at Paris provoked a conference at the White House on May 19, 1929, which resulted in an offer being cabled to Paris to scale down the army costs by approximately 10 per cent of the original amount and to extend the term of payment on condition that the other recipients of army costs payments wiped out their remaining claims under this head. The offer, which was accepted, amounted to about $30 million. It was minute compared with the other sums discussed, as was the entire American share of reparations, but the gesture produced a psychological as well as an arithmetical precipitation and brought the parties together.

Yet the political distance between the United States and Paris remained. On May 16 Secretary Stimson had announced that the United States Government "will not permit any officials of the Federal Reserve system either to serve themselves or to select American representatives of the proposed international bank," and on June 18 President Hoover stated that the United States would not be associated with the machinery of the Young Plan. This did not mean American rejection, for in a subsequent agreement negotiated between Germany and the United States on December 28[52] there was no departure from the American set-up under the Young Plan, save that the annuities are to be paid direct to the United States Government and not through the Bank for International Settlements. The American share is set out in an annex to the Plan. Allocated to the United States are annuities averaging 66.1 million marks for the first thirty-seven years and a fixed annuity of 40.8 million marks for fifteen years thereafter. In the subsequent German-American agreement a

[52] *Senate Document* No. 95, Seventy-First Congress, 2d Sess.

division between mixed claims and army costs was decided upon. For the satisfaction of mixed claims Germany engages to pay 40.8 million marks, or about $9.8 million, yearly until 1981. For occupation costs the annual payments average 25.3 million marks ($6.3 million) until 1965. A troublesome problem was whether the American claim should fall under the postponable or the non-postponable class. Under the Young Plan it had been put in the former class, in spite of the priority it received in the Dawes transfers, and this was confirmed in the treaty, though the provision is not identical with that relating to the postponable annuities under the Young Plan. Thus the United States has no official connection with either the Young Plan mechanism or the payments under it. American relation to the Dawes Plan having ended, the United States has no legal contact with the problem of reparation. Yet it can by no means whatever avoid the financial, economic, and political by-products of that problem.

United States Interest in German Future.

Of all the nations which sent experts to Paris to revise the German reparation liability the United States had the biggest stake in Germany except Germany itself. Since 1924 American investors had bought German securities to the value of no less than $1,210,609,000,[53] or 70 per cent of the total loans raised by Germany. The significance of the figure may be gathered from two comparisons: every Dawes year the United States had sunk in Germany an amount which almost exactly corresponded to the receipts of the United States from its War debtors, and the sum of American investments was almost as much as the total amount of reparations paid by Germany under the Dawes Plan. A further large but statistically uncomputable amount of American money has been privately invested in Germany by American industry. A number of industries under American ownership have set up branches in Germany and some American enterprises have bought into corresponding enterprises in Germany. Particularly is this relation growing between the automobile and electrical in-

[53] United States Department of Commerce. *American Underwriting of German Securities,* Trade Information Bulletin, No. 648.

dustries of the two countries. These forms of extraterritorial activity have built up in Europe $2.5 billion of direct American investment, and create for the United States a relation to any event, economic or political, which might affect the return flow of profits.[54]

Not without a certain apprehension, therefore, did American bankers, investors, and business men regard the approach of the standard year under the Dawes annuity, for this involved an increase in payments of about $175 million. Uncertainty was not allayed by the state of the exchanges. Late in 1928 and early in 1929 these showed the strain to which most of the European currencies were subject by the necessity of making gold consignments in payment for dollars. Rather than be kept on the short rations of depleted gold reserves, several nations were drifting away from the gold standard, which it is obviously in the interests of the United States as the largest gold-holder to preserve.

These financial and economic interests implicated the United States in the new revision of reparations in a manner which was entirely absent at the time of the Dawes revision. Of no less interest, now that the revision is over, is the prospect of how Germany will be able to meet its new annuities. To the American delegates these payments represent no more than Germany's "fair, equitable and economically feasible share of the cost of liquidating the war."[55] At the end of 1929 there was no sign to disturb this opinion. All payments had been raised and transferred without mishap. Foreign loans dropped to a third of the figure for 1928 and in consequence the year ended with a small surplus of sales on merchandise account. On this evidence the creation of a natural surplus in the country's activities may be said to be drawing nearer.

Internal conditions were apparently not impaired by the falling off of loans. ". . . It is noteworthy," said a German authority, "that in spite of the foreign capital influx having almost entirely ceased, the German economic system is able to maintain

[54] For discussion of direct American investments abroad see Louis Domeratsky, *Foreign Affairs,* July, 1930.

[55] Lamont, *op. cit.*

a volume of production and turnover, which, a year or two ago could only have been effected by means of a strong demand for foreign capital."[56] In spite of the lessened amount of capital imports, in spite of the drain of reparation payments, living standards advanced by 2 per cent,[57] measured by the advance in incomes after making allowance for changes in the cost of living. Nor did these factors prevent a decline in the Reichsbank rate from 7 per cent to 5 per cent in the early part of 1930. The verdict of the editor of *Die Bank*, Alfred Lansburgh, is that "The time no longer seems far off when German business will be able to do without foreign credit and to begin repaying its foreign debts and bringing back the securities and participations now in the hands of foreigners."[58]

Debts-Reparations Problem.

Of main importance to the United States is the verdict of the main reparation creditors that reparations and War debts are one problem. The union of debts and reparations has now gained the adherence of Germany and might properly be called a European verdict. "Whether we like it or not," says Mr. Lamont, "Germany has underwritten the debts of the Allied governments to our government."[59] And in view of the benefits it would receive therefrom, Germany is not likely to be backward in pressing for a fresh attack on the problem of reparations as a debts-reparations problem.

All American administrations since and including President Wilson's have resisted the union. Their view has been that since the War borrowings from the United States were individual voluntary transactions, these responsibilities cannot be transferred. In point of fact, there is no more connection between American debts and German reparations than between American debts and the merchant ships and other prizes taken from Germany or any other assets of the Allied Powers. But the fact emerges that Europe has decided that the connection exists and in consequence

[56] *Monthly Report of the Dresdner Bank*, July, 1929.
[57] *Institut für Konjunkturforschung.*
[58] *Journal of Commerce*, Special German Number.
[59] *Op. cit.*

the United States will henceforth be considered the "residuary legatee of reparations." Comparisons between the European War debt to the United States and reparations show that by 1988 the German payments under the Young Plan will have totaled $26.5 billion, while the European War debt payments to the United States will have reached $20.6 billion, or 77 per cent; after 1966, as has been explained, the two items practically balance. The chafing of impatient Europeans over this situation cannot be avoided if the debts are allowed to proceed to their long liquidation and a marked inequality in economic circumstances continues. The irritation has two aspects, economic and political. The economic argument is concerned with the accentuation through the War debts of the creditor position which the United States has gained since the War. Europe finds it irksome, as does Germany in the case of reparations, to have to borrow from the United States in order to meet preëxisting liabilities. The constraint of the European position makes a tariff policy seem unreasonable which prevents a goods settlement of debt. And the debtors dislike a monetary policy in the creditor country which does not allow gold movements to complete their function in respect of prices.[60] Finally, a certain type of European publicist has become alarmed at the sale of participation in European properties through private investments as the price of obtaining dollars. These transactions, which are the equivalent of a sale of the stock of debtor businesses instead of the products of those businesses, have lately come into great prominence in the relations of the United States and Europe.

The American answer is that in respect of the tariff the debtors may make triangular payments in the same way as they insist that Germany make them in meeting its reparations. While it must be admitted that the United States resists goods imports from its debtors, payment can be made in "invisible" imports, particularly through payments by tourist expenditures; in 1928 American tourists spent in Europe $782 million or three times as much as Europe sent to the United States in payment of the War debts. When a tourist leaves $100 in France the transaction

[60] See *Survey*, 1928, pp. 202 ff., for discussion of this point.

has the same effect as if the United States had imported $100 of perfumes and *pro tanto* establishes a dollar credit for France to make a dollar debt payment. Finally, the United States declares that its gold policy is not unique; in the last two years gold entering France has had about as much effect on the economic world as if it had been reburied in the mine, and of late months this has been criticized in England. The semiautomatic effect of gold movements on prices has also been impeded by the intensified world tendency of money to seek employment in markets where speculation is rife or interest rates high. European money in great quantity was attracted to New York in 1928–29 during the stock exchange boom and this circumstance in itself added to the difficulties of international settlements.

Economic pressure has a habit of transforming itself into political agitation. Many Europeans believe that the War debts were not essentially business transactions, and demand greater remissions than the United States granted in the funding settlements.[61]

The union of debts and reparations will cause no difficulty as long as Germany makes its payments. Should transfers break down, or should Germany for any other reason cease to pay reparations, the War debts question will again be reopened. For, though denied a written "safeguard" clause, the European debtors seem to have entered a mental safeguard clause into their policy, making their payments contingent on receipt of cover from Germany. It is perhaps significant that the reparation creditors practically modeled the terms of moratorium to be granted to Germany for its postponable annuities on those which they themselves were granted for their payments of War debts to the United States. Italy has not swerved from the position declared by Count Volpi in 1928: "Italy would never pay more than she received from Germany."[62] The French Chamber of Deputies, in a resolution separate from the ratification of the Mellon-Berenger agreement, declared that the charges imposed upon France by the accord should be covered by German reparation payments; and this parallel resolution, though not having the technical effect of a reservation, had the full intent of policy. As for Great

[61] See *ibid.*, pp. 403 ff.

[62] *New York Times*, February 18, 1928.

Britain, bound as it is to the principle of the Balfour Note, any stoppage in German payments would provoke a movement to persuade its debtors to make good the deficit, and this would intensify the desire of the continental debtors of Great Britain to ask the United States for corresponding reductions in their direct debts. Though it has been repeatedly stated in England that the War debts are a dead issue, the violent protest in England against the Plan as produced by the Young Committee savored of a release of pent-up feeling; the agitation was out of proportion to the importance of the objections which Mr. Snowden presented at The Hague.

The question of what would happen in the event that Germany demanded a moratorium for its reparations payments has been faced by at least one responsible statesman. In the Reichstag debate on the Young Plan on February 12, 1930, Finance Minister Moldenhauer stated that in this eventuality the creditor Powers would probably declare a moratorium for their payments to America. He said that the entire plan was built on this relation.[63] There is nothing on record which would warrant this assumption. For a time at least the budgetary equilibrium of the creditors need not be disturbed by the postponement of German payments. A special deposit of 500 million marks to be made by France in the B.I.S. in return for receiving five-sixths of the non-postponable sums would be used to equalize short payments to other creditors. The conclusion may be drawn from Dr. Moldenhauer's statement, however, that there is a widespread feeling in Germany that the Young Plan is transitional to a debts-reparation rearrangement, just as the Dawes Plan was a bridge to the Young Plan. "As far as I know," said the late Dr. Stresemann, "the experts themselves said in Paris: 'In such a situation one can attempt to give a judgment only for the next ten years.' I find even this 'next ten years' a little venturesome (*waghalsig*)."[64] To describe the arrangement as transitional connotes an attempt to make it so. Some German commentators see a possible opening for further revision in the acknowledgment in the Young Plan of its part-political inspiration. "How far this general reference to the

[63] *Sitzungsberichte des Reichstags,* 128th Sess. [64] *Ibid.,* 94th Sess.

political side of the Young Plan could be practically employed for purposes of revision in case of necessity remains to be seen,"[65] says Carl Bergmann.

The final aspect of debts-reparations is its connection with the public debt of the United States. The law[66] directs the Secretary of the Treasury to apply all money received by way of debt payment to the purchase and cancellation of United States Liberty bonds. But United States bonds, Liberty and other, are constantly being reduced through the use of tax moneys. At its peak on August 31, 1919, the debt was $26,596,701,648 as compared to $17,309,749,136 on January 1, 1929, and $16,300,921,501 on January 1, 1930. Bonds are thus being purchased and canceled at the rate of a billion dollars a year, of which only a quarter comes from abroad. At the present rate the public debt will be wiped out in seventeen years; after that time War debt receipts for forty more years will be a contribution to a debt which no longer exists.

It may be that all speculation on the future of intergovernmental indebtedness will be set at rest by an extension of the scheme for commercializing reparations. Of the commercialized portion of the German payments it was agreed that the first *tranche* should be mobilized in May, 1930, with the issue of bonds to the extent of $300 million. Part of this will provide ready cash for the Allies, and part will provide capital for improvements to the German railways and other public enterprises. In time it is proposed to sell $2.5 billion to private investors, or about a third of the total sum due from Germany. The suggestion has been made by Garrard Winston,[67] who was secretary of the World War Foreign Debt Commission, that with part of the cash in hand the reparation creditors could approach the Treasury at Washington for a reduced cash settlement of their obligations to the United States and once for all lift the debts-reparations problem out of the realm of political relations.

[65] *Foreign Affairs*, July, 1930. [66] *Statutes at Large*, XL, Part I, p. 35.
[67] Round Table Conference at the University of Chicago, 1928.

NOTE ON THE FRENCH DEBT

It has been explained that prior to ratifying its War debt settlements with Great Britain and the United States, France insisted upon an agreement from Germany to make a capital contribution toward French War damage. The matter was urgent because in the absence of ratification of the Mellon-Berenger agreement of April 29, 1926, a portion of the obligations funded therein would mature on August 1, 1929.

France divided its borrowings from the United States into two classes, political and commercial. In the latter class it placed the post-armistice purchase on credit of vast stores of supplies, materials and equipment which the American expeditionary force had accumulated in France. An act of Congress authorized the sale of these supplies to France, and in payment the French Government gave ten-year 5 per cent bonds, totaling $400 million, on which semiannual interest has been paid since their delivery; these bonds were refunded in the Mellon-Berenger agreement indistinguishably with the French pre-armistice cash borrowings. If France did not ratify the Mellon-Berenger agreement the debt represented by these bonds would fall due on August 1, 1929, and France would be called upon either to discharge the obligation in full or to ask for an extension of time.

On June 7 the Young Committee signed the Young Plan; the question of ratifying the Mellon-Berenger agreement was then submitted to the Chamber of Deputies, and after protracted discussion a favorable vote was given on July 21. On December 16 the United States Senate ratified the agreement, having previously subscribed to a joint resolution authorizing postponement of payment of the War supplies debt in case France ratified the settlement prior to August 1.

French indebtedness to the United States is funded as follows:[1]

[1] *Combined Annual Reports of the World War Foreign Debt Commission*, p. 425.

Pre-armistice cash advanced		$1,970,000,000.00
Post-armistice:		
Cash advanced	$1,027,477,800.00	
Less repayments	64,302,901.29	
Total	$ 963,174,898.71	
War supplies	407,341,145.01	
		1,370,516,043.72
Principal as of June 15, 1925		$3,340,516,043.72
Accrued interest to June 15, 1925 (computed at 4½ per cent per annum to December 15, 1922, and 3 per cent from December 15, 1922, to June 15, 1925)		684,483,956.28
Debt as funded		$4,025,000,000.00

Repayment of this principal is provided for in the Mellon-Berenger agreement. In addition the settlement makes allowance for interest payments. No standard rate was applied, but a contribution for interest was embodied with the repayment of principal in a series of annuities extending over sixty-two years. The schedule was drawn up in this fashion in order to conform to the supposed capacity of France to pay. At the end of the sixty-two-year period, the French will have paid $2,822,674,104.17 in interest, besides $4.025 billion in principal. Thus the average rate of interest is 1.64 per cent.

Compared with the rate of 5 per cent borne by the original obligations, the French settlement therefore falls short of what is known as the fulfilment of the debt. The difference between the debt prior to funding, or $4,230,777,000 ($3,340,516,043.72 principal plus accrued interest), and the present value of the annuities discounted at 5 per cent, or $1,681,369,000, would represent the extent of cancellation. On this basis 60.3 per cent of the debt prior to funding is canceled. But opinions vary as to the rate which should be compared with the rate charged, or 1.64 per cent. In a message dated July 27, 1929,[2] President Hoover, in congratulating France on its ratification, used 5 per cent as his basis of comparison, and pointed out the large reduction which had thus been accorded. Another method sometimes adopted is to contrast the 1.64 per cent with the interest rate at which money represented

[2] *New York Times*, July 28, 1929.

by the French debt was originally borrowed from Liberty Loan investors; in general this was 4¼ per cent, on which basis the extent of cancellation would be 52.8 per cent. Yet another method, one which Secretary Mellon has favored, is to use for comparison the going cost of money to the United States, for if interest were charged and paid at that rate the United States would obtain the full value of its loan.[3] Secretary Mellon assumed that for the next sixty-two years the going rate for money would approach 3 per cent, on which basis the extent of reduction of the French debt is 35.4 per cent.

The following table shows the position in regard to the main War debtors of the United States:

TABLE SHOWING THE PERCENTAGE OF CANCELLATION OF WAR DEBTS OWING TO THE UNITED STATES

Worked out by comparing the debts prior to funding with the present value of annuities discounted at the interest rates given.

	3 *Per cent*	*4¼* *Per cent*	*5* *Per cent*
Belgium	37.5	53.5	60.3
Great Britain	—4.44	19.7	30.1
France	35.4	52.8	60.3
Italy	63.6	75.4	80.2

[3] *Combined Annual Reports of the World War Foreign Debt Commission*, p. 593.

[4] At this calculation Great Britain's settlement is over 100 per cent fulfilment of debt.

CHAPTER TWO

WAR CREDITS AND WAR DEBT OF GREECE

IN 1928-29 Greece funded its war debt of $15,000,000 to the United States. This was the only World War debt left unsettled; the Soviet Government has repudiated all the war debts of the Tsarist Government, and Armenia has disappeared from the family of nations.

The last among America's war debtors to consolidate its war debt, Greece was the first to send a funding mission to Washington. This was in the winter of 1921–22, but as the delegation was never officially received, it returned to Athens. Thereafter settlement was delayed because Greece could obtain no satisfaction from the United States on its claim for further advances under a war-financing agreement of February 10, 1918. Both claim and debt have been disposed of by an agreement between the United States and Greece executed by the Treasury pursuant to an Act of Congress.

During the first three years of the War Greece, with a pro-German king in Constantine and a pro-Ally Minister in Venizelos, was in a condition of unstable military and political equilibrium. The relations of the Allies with Constantine became steadily more acute and at last in June, 1917, the King was forced to retire from the country, his second son, Alexander, was placed on the throne, and on June 29 Greece declared war on Germany, Turkey, and Bulgaria. In the course of the next ten months the Greek army was mobilized and equipped, and 250,000 Greek troops took a gallant part in the offensive which broke the Salonica front, caused the capitulation of Bulgaria, and began the German-Austrian débâcle.

After two Balkan wars Greece was in need of funds for military purposes. Its needs in munitions and supplies were cared for by Great Britain and France by an advance of 600,000,000 francs. It still needed funds for the mobilization and maintenance of its army and navy. By an agreement of February 10, 1918, the United States, Great Britain, and France agreed to advance

750,000,000 francs in equal shares in order to allow the Greek Government to obtain the credits necessary to provide for arrears and for military expenses during 1918, the advances to be under the control of an interallied financial commission and an interallied military commission. The advances in dollars, francs, and sterling were to be made during the War in case Greek foreign balances should fall below a hundred million francs; six months after the conclusion of peace the whole amount was to be available to Greece without restriction.

These credits were intended as cover for a note issue by the National Bank of Greece of a corresponding amount of drachmae. The Treasury of the United States opened credits in favor of Greece in the amount of $48,236,629 and the National Bank of Greece issued and put into circulation bank notes of a counter value of 250,000,000 drachmae which were employed according to the agreement of February, 1918. The United States advanced $15,000,000 and the National Bank of Greece thereupon withdrew from circulation 77,737,500 drachmae. France, although opening the credits on its books, made no advance at all; Great Britain advanced £6,450,000 ($31,826,910), or more than twice as much as the United States. Greece in fact expended the whole 750,000,000 francs for the agreed purposes, though, owing to the disbandment of the interallied commissions, the whole amount was never formally checked.

In the fall of 1919 Greece agreed that further American advances should be used to pay for purchases in the United States, and the advances continued until September 24, 1920, when the last advance of $5,000,000 was made, leaving $33,236,629 still undrawn.

During the peace negotiations at Versailles, Neuilly, and Sèvres, all involving Greek interests and lasting until August, 1920, Venizelos lost touch with his people, the government proved incompetent without him, and the resulting discontents were effectively exploited by Constantine's agents. The death of Alexander and the defeat of the government in a general election on November 14, which caused the resignation of Venizelos, brought Constantine back to the Greek throne.

This sequence of events was irritating to France and Great Britain; nevertheless they maintained relations with Greece and conducted business with the Ministry representing the parliamentary majority, withholding only from Constantine the personal courtesies prescribed by diplomatic etiquette. The United States also maintained diplomatic relations until the inauguration of the Harding Administration on March 4, 1921, when alone of all the Powers it ceased to maintain a minister at Athens and to recognize a diplomatic representative of Greece. Though diplomatic relations were not resumed until 1924, Greece continued to pay interest on the $15,000,000 advanced until the spring of 1922 when the United States Treasury refused to discuss the Greek claim to the balance of the credits under the 1918 agreement. It was willing, however, to continue to receive interest payments from Greece. The final refusal to go on with the agreement, combined with the similar attitude of Great Britain and France, was one of the causes contributing to the fall of the drachma from 19.27 cents in 1919 to 1.23 cents in December, 1922.

Requested on August 14, 1925, to fund its debt of $15,000,000, Greece asserted its right to the full amount of the credits covered by the 1918 agreement. A Greek delegation met the World War Foreign Debt Commission at Washington in January, 1926, and briefs were exchanged as to the validity of the Greek claim, but, in spite of a Greek offer of arbitration, no agreement could be reached, and the Greeks were again compelled to withdraw.

The United States Treasury and the World War Debt Funding Commission later became convinced of the correctness of the Greek position and negotiated a settlement of the counter-claims with the Greek Minister at Washington which was ratified by the Greek Parliament, January 18, 1928, and approved by an Act of Congress of February 14, 1929. This settlement funds the debt for the cash advances of $15,000,000, provides for a further advance by the United States of $12,167,000 on account of the agreement of 1918, and cancels that agreement as to the undrawn balance:

(1) The Greek debt is accepted at $18,127,922.67, being $15,000,000 of principal with interest at 4¼ per cent to December 15, 1922, and at 3 per cent to January 1, 1928, less the interest pay-

ments already made by Greece. Greece pays $2,922.67 in cash (in order to reduce the debt to a round figure) and gives its bonds for a face amount of $20,330,000 carrying no interest, payable as follows:

July 1, 1928	$ 20,000
Jan. 1, 1929	20,000
July 1, 1929	25,000
Jan. 1, 1930	25,000
July 1, 1930	30,000
Jan. 1, 1931	30,000
July 1, 1931	110,000
Jan. 1, 1932	110,000
July 1, 1932	130,000
Jan. 1, 1933	130,000
July 1, 1933, and semiannually thereafter to Jan. 1, 1938, 10 payments each of	$150,000
July 1, 1938, and semiannually thereafter to Jan. 1, 1990, 104 payments each of	$175,000

This settlement applies to Greece the "capacity to pay" theory, and the total payments computed at a discount rate of 4 per cent have a present worth of 34½ per cent of the debt. Settlements with Italy and with Yugoslavia were 26½ per cent and 33 per cent respectively, computed at the same discount rate.[1]

(2) The United States undertakes to advance to the Greek Government under the 1918 agreement $12,167,000 at 4 per cent payable semiannually with provision for a sinking fund to retire the loan in twenty years. Allowing for unpaid interest on the original advances at 5 per cent, this brings the American advance under this war-time agreement up to parity with that of Great Britain.

(3) All claim by Greece to the remaining unused credit of $21,069,629.05 under the 1918 agreement is withdrawn and the agreement is terminated.

(4) The $12,167,000 advanced on May 10, 1929, has been transferred *in toto* by the Greek Government to the Refugee Settlement Commission for its work.

The funds of this Commission[2] were supplied in 1924 by a

[1] See p. 476, and also *Survey*, 1928, pp. 437 ff.

[2] The work of the Commission is described in a pamphlet issued by the League of Nations and in the *Survey of International Affairs*, 1925 (Oxford University Press, 1928), II, 272–279.

Greek government loan under the auspices of the League, netting £10,000,000, and in October, 1927, by a second loan under the League which with the advance made by the United States of $12,167,000 amounted to £3,000,000. The Commission is not allowed to act as a philanthropic agency, its protocol stipulating that all its expenditures shall be for productive purposes. The devotion of the present advance of the United States to this purpose consecrates it to a worthy object and prevents its use either to pay budget deficits or to support military establishments; this designation of its use does not make the advance any the less the discharge of a contractual obligation.

(5) The annual service of the loan will amount to approximately $889,500. This service is to be under the administration of the International Financial Commission established at Athens and is to have as security the revenues at present under the control of the Financial Commission. For 1927 the estimated excess of revenues controlled by that commission over the sum required for the service of loans having prior charges amounts to the equivalent of approximately $28,000,000.

The loan is to rank with and is to share the same securities as the loan approved by the Council of the League of Nations on September 15, 1927, and as set forth in the Greek loan protocol signed at Geneva the same day. In the event of default in the service of the new loan, the ratio in which that loan is to share the securities named for the loan set forth in the Greek loan protocol is to be the same as that which the amount of the annual service charge due the United States bears to the amount of the annual service charge due the holders of the bonds issued in accordance with the protocol.

CHAPTER THREE

ALIEN ENEMY PROPERTY

WRITERS on international law present two opposing views concerning the treatment of enemy private property found on a belligerent's territory at the outbreak of war. One view, which may be termed the historical, is that a belligerent may confiscate such property; the other is that such confiscation constitutes a breach of international law. Supporters of each theory can find ample substantiating evidence in the varying practices of states. For this reason a brief review of the historical attitude toward enemy property and the writings of some authorities, of the policy of the United States before the World War, and of the practices of the Allied and Central Powers during the World War, may constitute a proper setting for a survey of the treatment of enemy property in the United States during and after the World War.

In the Antonine period Roman jurists applied to enemy property found on *solum Italicum* a rule of law expressed by Celsus as follows: "*Quae res hostiles apud nos sunt non publicae sed occupantium fiunt.*"[1] Maine, commenting on the passage from Celsus, says that "the law of warlike capture derives its rules from the assumption that communities are remitted to a state of nature by the outbreak of hostilities, and that, in the artificial-natural condition thus produced, the institution of private property falls into abeyance, so far as concerns the belligerents."[2] But Roman law, even at its most enlightened period, did not stop here. Enemies found on *solum Italicum*, unless protected by treaty, became slaves when seized, and those captured in battle suffered a similar fate; yet this represented a considerable advance over the earlier Roman practice of putting to death all enemies captured in war.[3]

[1] *Digest*, 41, 1, 51. "Enemy property found on Roman soil does not become public property, but that of the first taker."

[2] *Ancient Law*, p. 239 (Pollock's edition).

[3] The rule of law for enemy property found on *solum provinciale* is given by Gaius: "*Item quae ex hostibus capiuntur, iure gentium statim capientium fiunt.*" *Ibid.*, 41,

The barbarian peoples who overthrew the Roman Empire maintained, on the whole, the practices of the Roman soldiery, and the theories of the imperial jurists.[4]

The moderating influence of Christianity upon the rule of a society which regarded war as a *bellum omnium contra omnes* was considerable though it cannot be estimated with any exactitude. In 1023, a French bishop, intent upon putting an end to the destruction of innocent peasants' homes and crops occasioned by the neighborhood wars of the robber knights and feudal lords, proposed that the nobles take the following oath:

> . . . I will not destroy and burn houses; I will not uproot and devastate vineyards under pretext of war. . . . I do not want them to lose their property through a war that their lord wages. . . .

By the Truce of God promulgated by the bishops the landed gentry were forbidden to fight over the Sabbath and on a number of church holidays. The contemporary writings of the chroniclers expressing disapproval and horror at the general plunder which followed feudal wars indicate that there was a strong public sentiment against such practices.

This sentiment found expression in Article 41 of Magna Carta (1215)—an article which has been characterized as the first trading with the enemy act:

> All merchants should have safety and security in coming into England and going out of England, and in staying and travelling through England, excepting in time of war; and if they be of a country at war against us, and if they are found in our land at the beginning of a war, they shall be apprehended without injury to their bodies or goods, until it be known to us how the merchants of our country are treated who are found in the country at war against us; and if ours be in safety there, the others shall be in safety in our land.

Though the operation of this article is conditioned upon the belligerents' treatment of English merchants, it nevertheless

1, 5, 7. "Also things captured from the enemy become, immediately, by the law of nations, the property of the captors," captors in this case meaning the captor state.

[4] Justinian, *Institutes*, 2, 1, 17.

marks an important inroad into the practice sanctioned by Roman law.[5] There is evidence that the principle of reciprocity expressed in Article 41 was declaratory of a previous practice. McKechnie[6] refers to a writ of August, 1214, which directs the bailiffs of Southampton to detain all Flemings and their goods pending further instruction from the King.

With the development of international commerce[7] and the humanizing influence of the Church, the principles of freedom of transit and of withdrawal of goods were extended. In 1370 Charles V of France issued an edict promising enemy merchants free departure with their goods upon declaration of war. This indulgence was never transformed into a right, for there were numerous instances of confiscation in the first half of the seventeenth century.[8] But the Peace of the Pyrenees, which brought to a close a war between France and Spain, marked one of the important beginnings of the milder practices which began to assert themselves in the latter half of that century. Article XXII provided that

> All goods and merchandise arrested in either kingdom upon the subjects of the said Lords and Kings, at the time of the Declaration of War, shall be uprightly and *bona fide* paid to their owners.[9]

Although Grotius condemned the practice of seizing private property, he did not consider that the law of his time prohibited it. His attitude toward confiscation indicates the wide gap that so often exists between the current international legal philosophy and the actual practice of states.[10] The age of Grotius was one in which the dividing line between law and theology was not

[5] Montesquieu, commenting on Article 41, said: "La grande chartre des Anglois défend de saisir et de confisquer en cas de guerre les marchandises des négociants étrangers à moins que ce ne soit par représailles. Il est beau que la nation Angloise ait fait de cela un des articles de sa liberté."

[6] *Magna Carta,* p. 399, note.

[7] The lex mercatoria as evidenced in the "Laws of Wisby," the "Consolato del Mare," and the "Laws of Oleron" indicate tendencies of enlightened practice, especially as regards the rights of merchants in time of war.

[8] Hall, *International Law,* p. 522 (8th ed.).

[9] Dumont, *Corps Universal Diplomatiques du Droit des Gens,* VI.

[10] In essence, the framers of the Peace Treaties resorted to the practice Grotius described as existing in his time.

distinctly drawn, and it is not surprising, therefore, to find Grotius appealing to natural reason and scriptural authority for arguments to check the violent passions of combatants—passions which international lawyers since Grotius have often ignored to the detriment of international law. Bynkershoek and Vattel, writing in the eighteenth century, affirm the practice which was current in the seventeenth. Bynkershoek asks what is the law when, in the absence of treaty provision on the point, there are found in an enemy's territory goods belonging to the other belligerent. Arguing that a state of war despoils the enemy of all his goods, he answers that

> everything belonging to the enemy, which is found in the hostile country, changes its owner and belongs to the fisc. It is besides customary in almost every declaration of war to proclaim that goods of enemies, as well those found among us, as those taken in war, shall be confiscated.[11]

Vattel, writing some fifty years later, records that confiscation is still resorted to by states; but, as did Grotius, he condemns it as an unenlightened practice.

The philosophy of the "rights of man," ushered in by the French Revolution, profoundly affected the conception of the individual's relation to the state, and this in turn brought about a change of attitude toward the relation of war and conquest to private property. This new conception is foreshadowed by Montesquieu. He urged that

> the various nations ought to do one another in peace the most good, and in war the least evil that is possible without injuring their interests.[12]

A more emphatic and memorable expression of this idea is given by Rousseau in his *Contrat Social.*[13]

> War is a relation, not between man and man, but between State and State, and individuals are enemies only accidentally, not as men, not even as citizens, but as soldiers; not as members of their country, but as its defenders.

[11] *Treatise on the Law of War,* chap. vii.
[12] *Esprit des Lois,* L, chap. 3.
[13] Book 1, chap. iv.

Rousseau's conception marked a transition from the previously dominating principle expressed by Vattel that

> . . . these two [belligerent] nations are enemies, and all the subjects of the one are enemies to all the subjects of the other. In this particular, custom and principles are in accord.[14]

Since war is a relation between states, Rousseau contended that belligerents should confine their attacks to public property and do the least possible harm to private property. Thus Rousseau's notion has provided the basis of the modern law of war on land; its full development to cover enemy property at sea was checked by British interests which dictated a contrary policy.

The combined theories of Rousseau and Vattel, the philosophy of the one and the practices recorded by the other, seem to have furnished the basis on which England and the United States have built their system for the protection of the foreign enterprises of their nationals. They have been signatories to various treaties in which Rousseau's distinction has been applied to the protection of the property of the resident nationals of a hostile state, either by setting a liberal time limit for liquidation and withdrawal after an outbreak of war, or by disavowing the right of a government to resort to seizure and confiscation. Among these treaties England signed two with France, in 1731 and in 1786, two with Russia, in 1766 and in 1797, and one with the United States in 1794, the Jay Treaty, of which Article X reads:

> Neither the debts due from individuals of one nation to the other, nor shares, nor monies, which they may have in the public funds, or in the public or private banks, shall ever in any event of war or national differences be sequestrated or confiscated, it being unjust and impolitic that debts and engagements contracted and made by individuals, having confidence in each other and in their respective Governments, should ever be destroyed or impaired by national authority on account of national differences and discontents.

United States Policy before the World War.

The United States signed similar engagements for the protec-

[14] *Droit des Gens,* III, chap. v.

tion of merchants in war-time: with Sweden in 1783, with Russia in 1785, with Prussia in 1785, 1799, and 1828, with Spain in 1795, with Italy in 1871, and with a number of Latin American republics. Typical of the provisions in these treaties is the part of Article 21 of the 1785 Treaty with Prussia which was retained in Article 23 of the 1799 Treaty and revived by Article 12 of the 1828 Treaty:

> If war should arise between the two contracting parties, the merchants of either country residing in the other shall be allowed to remain nine months to collect their debts and settle their affairs, and may depart freely, carrying all their effects without molestation or hindrance; and all women and children, scholars of every faculty, cultivators of the earth, citizens, manufacturers and fishermen, unarmed and inhabiting fortified towns, villages or places, and in general all others whose occupations are for the common subsistence and benefit of mankind, shall be allowed to continue their respective employments, and shall not be molested in their persons, nor shall their houses or goods be burned or otherwise destroyed, nor their fields wasted by the armed forces of the enemy, into whose power by the events of war they may happen to fall; but if anything is necessary to be taken from them for the use of such armed force, the same shall be paid for at a reasonable price.

Moreover, Article 24 of the 1799 Treaty, also revived by Article 12 of the 1828 Treaty, and still, therefore, in force, reads:

> And it is declared that neither the pretense that war dissolves all treaties, nor any other whatever, shall be considered as annulling or suspending this and the next preceding article; but on the contrary, that the state of war is precisely that for which they are provided, and during which they are to be sacredly observed as the most acknowledged articles in the law of nature and nations.

An Act of Congress of 1798 (U.S. Comp. Stat., section 7616) implemented these treaties by providing that an alien enemy not chargeable with any crime against public safety should be allowed for the removal of his goods and for his departure the time allowed by the treaties between his government and the United

States, or, in the absence of such a treaty, a period which the president should declare to be "consistent with the public safety and according to the dictates of humanity and national hospitality."

The United States has customarily adhered to the principle that enemy private property seized during hostilities is to be returned at their close. This policy was first put into practice in the settlement of British claims arising out of confiscations and acts of war during the American Revolution. Several States had enacted confiscatory laws providing for the payment into the state treasuries of debts owed to British subjects. Under the treaty of peace with England of 1783 the Confederate Congress undertook "earnestly to recommend to the legislatures of the various States to provide for the restitution" of debts and other private property confiscated. In the absence of a central authority this recovery of legal rights by British creditors proved ineffective. After the adoption of the Federal Constitution the Jay Treaty was signed, setting up claims commissions to determine the amounts of British and American claims. The failure of the commissions to agree upon the amounts of the debts in question led to the Convention with England of 1802; under its terms the United States paid to Great Britain £600,000 to indemnify British subjects for the losses sustained through acts of confiscation.

After the declaration of war upon England in 1812 Congress passed the first "Trading with the Enemy Act," prohibiting the exportation to Canada of certain materials useful in war, but the president was authorized to issue passports for the safe-conduct of any British ship or other property found within the jurisdiction of the United States. The Federal Government passed no laws providing for the seizure of British property, but some instances of confiscation under local authority gave rise to litigation after the close of the war. In one of these cases (*Brown* v. *U.S.*, 8 Cranch 110) Chief Justice Marshall declared that "war gives to the sovereign full right to take the persons and confiscate the property of the enemy wherever found" but that this right could not be exercised "without obloquy. . . . It is not believed that modern usage would sanction the seizure of the goods of an

enemy on land which were acquired in peace in the course of trade."

In commenting to President Washington on the Jay Treaty, Alexander Hamilton referred to this "modern usage":

> And though in remote periods the exception may not have been duly observed, yet the spirit of commerce, diffusing more just ideas, has been giving strength to it for a century past, and a negative usage among nations according with the opinions of modern writers, authorizes the considering the exception as established.
>
> If there have been deviations from that usage in the actual war of Europe, they form no just objection to this reasoning: for this war has violated, in different instances, most of the sacred laws of nations.[15]

The "deviations" of the French Revolutionary wars were rectified by the Treaties of Vienna of 1815, which added the weight of law to that of "usage."

The treatment of private property during the Civil War was affected by circumstances which rendered it an exception, in the view of both Federal and Confederate Governments, to the established laws of war. In laying down regulations for the seizure of the property of Southern citizens the Federal Congress was perplexed by an uncertainty as to whether they were to be treated as "enemies" or as "traitors" and by questions relating to the confiscation of slaves. The result was a confusion of laws which in the aggregate were more severe than those permissible in an international war. The Confederate States, though considering Federal citizens as "alien enemies," applied confiscatory measures to the property of Northern citizens and sympathizers as means of retaliation against "the departure from the usages of civilized warfare in confiscating and destroying property." In view of the exceptional nature of the war the acts of neither government can be considered to have affected international usage or law. In the Spanish-American War the principle of the inviolability of private property on land in war-time was upheld; enemy ships were allowed to clear and enemy property was not molested.

[15] July 9, 1795. *Works of Alexander Hamilton* (ed. Lodge, 1904), V, 160.

Allied Action during the World War.

Uncertainty about an international standard, however, prevailed. The last attempt to establish one was made at the Hague Conference of 1907, which adopted the following provisions:

Regulations Respecting the Laws and Customs of War on Land:

Section II. Hostilities.

Article XXII: The right of the belligerents to adopt means of injuring the enemy is not unlimited.

Article XXIII: In addition to the prohibitions provided by special Conventions, it is formally forbidden

g. To destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war;

Section III. On Military Authority over Hostile Territory.

Article XLVI: Family honors and rights, individual lives and private property, as well as religious conviction and liberty must be respected.

Private property cannot be confiscated.

Whether articles XXII and XXIII were intended to extend the abnegatory principle to enemy private property within a country's jurisdiction and removed from the scene of war, or whether their application was restricted to enemy territory occupied by armed forces, thus duplicating Article XLVI, was a controversial point even before the World War put it to the test. Continental writers have asserted its general application, which appears to have been corroborated by American opinion. English jurisprudence, however, has consistently opposed this interpretation, and Lord Reading, writing for the King's Bench in *Porter* v. *Freudenburg* ([1915] 1 K.B. 857) held that the sections were effective only in enemy territory under military occupation.

Doubts as to the permissibility under the Hague Conventions of seizing enemy private property were thrown to the winds at the outbreak of the World War. The economic interdependence of an industrialized world had produced a skein of credits, based

upon foreign investments, which constitute a vital element of fighting power. A ban against seizure of enemy private property would have proved as ineffective as the proposal of an early Pope, recalled by Toynbee, that the use of the lethal crossbow should be prohibited in warfare among Christian nations. The treatment of enemy property in the World War was designed, however, not as in the Napoleonic Wars with ultimate confiscation in view, but as a temporary weapon.

The general British policy, though lacking in uniformity, both in the laws enacted and in their application by the courts, was to sequestrate enemy property and to place it in the hands of a Custodian who appointed administrators for German businesses and held German funds in trust. The House of Lords, for example, reaffirmed the doctrine that

> It is not the law of this country that the property of enemy subjects is confiscated. Until the restoration of peace the enemy can, of course, make no claim to have it delivered up to him, but when peace is restored he is considered as entitled to his property with any fruits it may have borne in the meantime.[16]

By the close of the War most German enterprises whose administration had been taken over by the Custodian had been sold or liquidated.

In France no comprehensive principle regarding the treatment of enemy property and rights was adopted. On August 22, 1914, German goods in the Havre Customs were seized, and thereafter numerous sequestrations, based on the Civil Code, were undertaken by local authorities, followed by liquidations often made at great loss to the owners, even when they included French investors. The Ministries of Justice and of the Interior issued a series of circulars laying down a multiplicity of rules, inspired by circumstances, governing the sequestration and disposition of enemy property. Businesses were in many cases given into the charge of receivers who were not always provided with authority to protect them against serious loss. Liquidation of assets was

[16] Lord Finlay in *Stevenson* v. *Aktiengesellschaft für Cartonnagenindustrie* [1918] A.C. 239.

generally carried out. Many German patents lapsed and others were utilized for war purposes by the French Government without compensation. By January 22, 1916, when reports were demanded on all properties held on behalf of individual enemies, much enemy and some non-enemy property had been lost or dissipated as the result of confusing regulations and friction between authorities.

On May 21, 1915, two days before the Italian declaration of war upon Austria-Hungary, Italy signed a special agreement with Germany providing for the reciprocal protection of the private rights of the subjects of each within the territory of the other. Shortly afterward diplomatic relations with Germany were severed, and, though war was not declared upon Germany until August, 1916, the legal position of Germans in Italy was assimilated to that of Austro-Hungarians. In April, 1916, Italy provided for the sequestration of all enemy property, followed by general liquidation.

By an Imperial ukase of November 15, 1914, Russia provided for the payment of all sums due enemy subjects into the Imperial Bank, to be held in trust. Other ukases, issued March 16, 1915, and thereafter, ordered the sequestration and liquidation of all enemy property on which certain taxes had not been paid.

With a view to adopting concerted measures to hasten the economic destruction of the Central Powers, the Allied Powers held an Economic Conference in 1916. One of its decisions was to liquidate all enemy property instead of preserving it in kind until the close of the War.

In general the Central Powers adhered more closely than the Allies to the spirit of the preëxisting international standards and exercised a forbearance in their treatment of enemy property found within their jurisdictions which made possible in many cases the restitution of property in kind and uninjured. During the course of the War Germany adopted stringent measures of a retaliatory nature, but these were applied to the subjects of certain enemy Powers only in the measure of the severity of their treatment of German property. Soon after the outbreak of hostilities, Germany adopted measures of supervision designed

to secure enemy property and business against loss. Supervisors were appointed to assure orderly management, or, when necessary, just liquidation of assets; they were not authorized to change the personnel of foreign undertakings in Germany. To the prohibition against trade certain exceptions were made to permit the transmission to Germany of sums required for the payment of fees for patents, trade-marks, etc., in cases where liquid assets left in Germany were insufficient to cover them, and for remittances by residents of Germany for the payment abroad of insurance premiums, court costs, taxes, etc., when these should be necessary to preserve German rights in enemy countries.

The doctrine to which German war measures largely conformed is stated in a decision of the German Imperial Court, October 26, 1914 (85 Sup. Court Decisions, 574):

> German international law does not adopt the views of certain foreign systems of law, that a war is to be conducted so as to produce the greatest loss to the subjects of the enemy state, and that those subjects therefore are in large measure deprived of the benefits of the general law governing civil rights. On the contrary, it adopts the principle that war is waged only against enemy states and against their armed forces, and that subjects of enemy states as regards civil rights are in the same legal position as before the war except in so far as legislation may create exceptions. This principle does not preclude the adoption of special laws, as has been frequently done during the present war, especially by way of retaliation, prescribing different treatment of enemy subjects.

Austria-Hungary, though it prohibited trade with the enemy, was unique among the belligerents in not resorting to any sequestration of enemy private property.

United States Action during the World War.

When the United States declared war upon Germany on April 6, 1917, the only obstacle to a free choice of policy regarding enemy private property was the Treaty with Prussia of 1799 as revived and perpetuated in 1828, although the President had attempted to formulate the principle to be maintained in a declara-

tion which he gave out through the Department of State on February 18, 1917:

> The Government of the United States will under no circumstances take advantage of a state of war to take possession of property to which international understandings and the recognized law of the land gives it no just claim or title. It will scrupulously respect all private rights alike of its own citizens and subjects of foreign states.[17]

The general practice of the belligerents, with the exception of Austria-Hungary, had removed any restrictions which the Hague Conventions might have been thought to place upon the seizure of enemy property, and the established prohibition against the confiscation of private property made no distinction between the preservation of property in kind and the preservation in trust of the proceeds of liquidation or sale.

The first necessity facing the Government after the declaration of war was that of procuring the maximum transoceanic transportation for troops and supplies. In American ports were 109 privately owned German ships, with an aggregate tonnage of about 635,000 gross tons, variously estimated as worth between $100,000,000 and $300,000,000. They were immediately seized by presidential order, and Congress passed a Joint Resolution, approved May 12, 1917, authorizing the President to take over the possession and title of ships belonging wholly or in part to enemy nationals, or flying the enemy flag, and to operate, charter, or lease them in the service of the United States. Provision was made for a Naval Board Survey to determine the value of the ships, which were distributed between the Navy Department and the United States Shipping Board and were carried on the government books as a lump liability of $34,000,000. Two radio stations, one German-owned and the other subject to German liens, were similarly seized by the Navy Department.

The next steps necessitated by the war policies of the Allies were the creation of means by which to make effective the cessation of commercial intercourse with the enemy and the destruction of any

[17] Hearings, Committee on Finance, United States Senate, H.R. 7201, January 24, 1924; p. 158.

sources from which the enemy might derive economic benefit. To encompass this end in a manner compatible with the safeguarding of foreign investments in this country and in conformity, as far as possible, with traditional respect for private property, Congress passed a detailed Trading with the Enemy Act, which was approved on October 6, 1917.

This Act defined the "enemy" as all persons resident in Germany or in territory under German occupation, whatever their nationality, all persons resident outside of the United States and "doing business" in enemy territory (including legal persons), and "natives, citizens or subjects of any nation with which the United States is at war . . . wherever resident or wherever doing business" if the President should find the safety of the United States or the successful prosecution of the war so required. Under this provision of the Act those subjects of enemy states who were interned in the United States were declared to be enemies within the scope of the Act by a presidential proclamation of February 5, 1918. Thus the property of Germans residing in this country was not affected until nearly ten months after the declaration of war, in conformity with the time limit of nine months provided under the terms of the Prussian Treaty of 1828. Not all Germans resident in this country were interned as enemies, but the majority of Germans owning important properties were brought under the category of enemies either by the Act itself or by the President's proclamation.

The Act prohibited trade with the enemy, provided for the licensing of enemy insurance companies for the continuance of business, vested the President with wide powers in respect of the restraint of trade and the sequestration of enemy property, and provided for the appointment of an Alien Property Custodian to receive, hold, administer, and account for all enemy money or property. Under Section 12 he was designated as "common-law trustee" to manage the property and "if and when necessary" to sell it in order to prevent waste and "to protect such property to the end that the interests of the United States in such property and rights of such persons as may ultimately become entitled thereto or to the proceeds thereof, may be preserved and safe-

guarded." The property so held was to be subject to future disposition by Congress. Moreover, the Custodian was given the right of peremptory seizure of enemy property, including shares in corporations and interests in partnerships, from which no relief was provided, except that under Section 9 as amended July 11, 1919, non-enemies might advance claims against enemy property; these, if disallowed by the Custodian, could be satisfied by a suit in equity.

Notwithstanding some omissions in this Act—e.g., the question of interest, which was left to time and the courts for regulation—it was well designed for its purpose, as stated by the first Custodian,

> to preserve enemy-owned property in the United States from loss and to prevent every use of it which may be hostile and detrimental to the United States.

In the trusteeship of the Custodian there was "no thought of a confiscation or dissipation of the property thus held in trust."

Metamorphosis of the Trading with the Enemy Act.

Between its enactment in 1917 and the final amendments embodied in the Act of March 10, 1928, providing for the return of enemy property, the purposes and scope of the Act suffered a number of transformations, and the Custodian abjured the idea of being "a mere conservator of enemy property" and "tried to make the Trading with the Enemy Act a fighting force in the war." Amendments extending the powers of the Custodian far beyond those essential to the functions of a "trustee" were presented by him to Congress and passed, and special delegations of power were issued as Executive orders.

An Amendment to the Act was adopted on March 28, 1918, which vested in the Custodian the power to manage property and to "do any act or things in respect thereof . . . by sale or otherwise . . . in like manner as though he were the absolute owner thereof." This Amendment also contained the provision that all sales be public and subject to public advertisement "unless the President, stating the reasons therefor, in the public interest shall

otherwise determine." This in effect revoked Section 3 (h) of the prior Executive Order of February 26, 1918, which declared that "all sales made by the Alien Property Custodian may be conducted privately, with or without advertisement, and on such terms and conditions as to the Alien Property Custodian may seem proper." The subsequent orders authorizing the private sale of certain classes of property came to include almost all kinds of property owned by enemies. An amendment of November 4, 1918, extended the presidential powers to include the seizure and sale of patents and copyrights, the rights of the claimants after the War to be limited to the net proceeds of sale. In pursuance of this provision an Executive Order, signed by the Acting Secretary of State on February 26, 1919, specifically authorized the private sale of the German chemical patents to the Chemical Foundation.[18]

In regard to share certificates held by the enemy, the Executive Order of February 26, 1918, authorized the Alien Property Custodian to take them over and to exercise "every right, power and authority" conferred upon an enemy by the ownership of such stock "in the management, operation, conduct or sale of such business," including the power to dispose of all enemy interests in partnerships, associations, or unincorporated companies as though he were the absolute owner. The statute of November 4, 1918, further vested in the Custodian the power to invalidate the original shares of enemy-owned stock and to cause the issue of duplicates in his own name or in those of his appointees.

Under the Act and Amendments the first Custodian received some 30,000 trusts supposed to be worth about $500,000,000. Perceiving that the legislation did not safeguard the power irrevocably to dispose of properties of enormous value from intemperate feeling toward the national enemy, or errors in judgment, he voluntarily established an Advisory Sales Committee, composed of well-known Americans, to prevent "the possibility of favoritism or unfairness in the sale" and to pass upon "the qualifications of the purchaser." The functions of this Committee were limited to the conditions and terms of sale; the Custodian determined when sales should be made. A process called "Americanization" was

[18] See pp. 499 ff.

undertaken and continued after hostilities had ceased; of the auction sales made by successive Custodians, realizing approximately sixty million dollars, nearly all took place after the Armistice under presidential orders authorizing the sale of individual private property. These sales in the conditions then obtaining caused an evaporation of cash values and substantial losses to the German owners.

The Custodian gave several reasons for making post-war sales:

1. War did not cease with the Armistice.

The Trading with the Enemy Act defined the end of the war as "the date of proclamation of exchange of ratifications of the treaty of peace," unless the President shall by proclamation declare a prior date, in which case the date so proclaimed shall be deemed to be the "end of the war."

2. The enemy property sold after the Armistice

was all demanded and taken over by the Alien Property Custodian many months before the Armistice was signed, and the jurisdiction of the Custodian having attached there can be no legal reason why the signing of the Armistice should operate to prevent the change of character of that property which is the only effect of the sale.

3. The bitterness accruing from the war would ruin any business in German hands on American soil. It would be a mistaken sense of justice which would attempt to hold their property for them in kind.

4. There was a "very much broader consideration," namely, "the importance and necessity of securing American industrial independence by dislodging the hostile Hun within our gates."[19]

The first two reasons afforded legal ground for the extrusion of German capital but the contention that the sale of German property, which generally took place under adverse market conditions, was more advantageous to them than restoration would be was regarded as ironic by the owners. The Germans contrast the post-war program for the "Americanization" of seized German industries with the invitations to German investment which emanated from the United States between 1880 and 1914. For ex-

[19] Alien Property Custodian Report, Washington, 1919, p. 17.

ample, in 1911 the United States Consulate General in Berlin delivered a letter from the State Department to a German institution corresponding to a Chamber of Commerce which declared:

> The American consular bodies have been instructed to accord every possible help and support to all such foreign manufacturers as may intend to establish branch factories in the United States. Our Consulate General is not only in position to provide all preliminary information, but might also bring those concerned into touch with Mercantile Bodies and municipal corporations in the United States with whom negotiations could be opened; this would, in many cases, result in the German manufacturers reaping unusual benefits for planned undertaking.

"Americanizing" German Patents.

During 1918 representatives of several of the major chemical concerns in the United States conferred with the Custodian with a view to securing the advantage of the many chemical and similar patents which were owned and registered in the United States by Germans. Numerically a third of the German-owned American patents, they comprised some extremely valuable properties. Since the Custodian's extensive powers of sale were not broad enough to cover the sale of patents, Congress on November 4, 1918, authorized their sale, and the Chemical Foundation was organized to take over patents about to be sold. Its charter provided that the property was to be acquired "in a fiduciary capacity for the Americanization[20] of such industries as might be affected thereby, for the exclusion or elimination of alien interest . . . and for the advancement of chemical and allied science and industry in the United States." The capital stock, subscribed by various chemical, dye, steel, and other manufacturing companies, was divided into $400,000 of preferred non-voting stock and $100,000 of common to be held in a voting trust until January 1, 1936, when all the patents would have expired. The board of voting trustees,

[20] The Supreme Court defined the term "Americanization," new to jurisprudence, as a measure taken "to protect the United States against enemy and foreign control of its chemical industries and to stimulate production here." Among the reasons for the transfer, said Mr. Justice Butler, was that the Foundation had been incorporated "to hold the patents as a trustee for American industries affected by the patents." *United States* v. *Chemical Foundation,* 272 U.S. 1.

made up of the members of the Advisory Sales Committee, received the power to fill vacancies in their board, and also to elect the directors of the corporation whose resignations were continually to remain in the hands of the trustees for acceptance.

On March 4, 1919, a new Alien Property Custodian was inducted, and on March 8, 1919, he also became President of the Chemical Foundation. On April 10, 1919, he sold to the Foundation about 4,500 patents, which had been selected by the patent experts of the major American chemical and dye organizations and seized by number on the books of the Patent Office, at a lump price of approximately $250,000. This sum was not allocated to the various trusts under which the patents had been held for their owners, but was carried on the books of the Custodian as a total fund against which the various owners might make their claims. A number of other patents were later sold to the Foundation at the rate of $50 each, the total cash consideration paid being $271,850. The charter provided that the corporation was to "grant non-exclusive licenses upon such terms as the Board of Directors may determine," and the Foundation undertook to devote all its net profits above 6 per cent to "the development and advancement of chemistry and the allied sciences in the useful arts and manufactures in the United States."

It is not easy to estimate what royalties the chemical industries would have had to pay for the use of these patents if they had continued in the possession of the German owners. The question of value is complicated because an unallocated price was paid for 4,500 patents, among which were patents for such valuable articles as salvarsan and aspirin,[21] and because in many cases the

[21] The separate owners were treated as if they constituted a syndicate owning all the patents in common.

German Kartel: In 1904 there were two German Kartels, each composed of three of the largest companies in Germany:

a. Badische Anilin und Soda Fabrik
   Farben fabriken vorm. Fried. Bayer & Co.
   Actien-Gesellschaft für Anilin Fabrikation (Berlin)
b. Farbwerke vorm. Meister Lucius & Bruning (Hoechst/Main)
   Leopold Casella, G. m. b. H.
   Kalle & Co. Actien-Gesellschaft

In 1916 these were combined and with Griesheim Elektron, Weiler-ter-Meer, and other smaller companies formed an organization representing nearly the

patents surrounding a compound (sometimes as many as a hundred) included only the experimental stages and omitted some element essential to the manufacture of the commercial article. The German owners did not work many of the patents in the United States but, adopting a practice customary in international patenting, took out patents in this country to protect the sale of imported articles manufactured in Germany. For this reason many of the patents were commercially useless and a substantial part of the advantage accruing to the new American licensees from their use was the result of their own laboratory development. The Circuit Court of Appeals, however, said that if

> inadequacy of price means that the $250,000 was not enough in that it was less than the value of the patents in the hands of their previous German owners, we promptly say the price was grossly inadequate . . . and we base our conclusion on the royalties which were being paid and received for some of them in 1919.[22]

The German patent-owners have no legal redress, for the courts have declined to set the transactions aside, holding that under the statutes the Custodian was not bound to obtain a fair price and that confiscation was not unconstitutional.

Congress was untrammeled and free to authorize the seizure, use or appropriation of such properties without any compensation to the owners. There is no constitutional prohibition against confiscation of any properties. And the Act makes no provision for compensation. The former enemy owners have no claim against the patents or the proceeds derived from the sales. It makes no difference to them whether the consideration paid by the Foundation was adequate or inadequate. The provision that after the war, any claims shall be settled as Congress shall direct, conferred no right upon such owners. Moreover, the Treaty of Berlin prevents the enforcement of any claim by Germany or its nationals against the United States or its nationals on account of the seizures and sales in question.[23]

entire German dye and pharmaceutical industry. The combination was close and profits were annually pooled according to agreed percentages. The properties of the various constituent companies were individually owned, however, and separately managed.

[22] 1925—5 Fed. 3d, 191.

[23] *United States* v. *Chemical Foundation,* 272 U.S. 1.

The amount of the German loss went partly to the United States Government in the form of free use of the patents, for at the time of the sale the Custodian released the United States from claims for past infringements, and the Chemical Foundation made an oral agreement with the Custodian to "license the United States in such manner as to grant to it during the life of each and all said patents, the right, free of charge, to make or have made for its own use the several processes and products covered by said patents"; while this constituted part of the "consideration" paid by the Foundation, it produced no liability on the books of the Custodian against which, under the Settlement of War Claims Act, the German owners might claim compensation. The rest of the German loss went to the benefit of the American chemical and allied industries.

United States Claims Obstruct Return of Property.

On June 5, 1920, Congress passed the first important act for the release of sequestrated property. It covered the property of those who had by the treaties of peace become citizens of such "non-enemy" countries as Poland, Czechoslovakia, Yugoslavia, Italy, Rumania, etc., and applied to the property of native-born American women who had married Germans, as well as to other limited classes.

Difficulties in dealing comprehensively with sequestrated property were created by the long Senate delay in the consideration of the Versailles Treaty. By its terms Germany had agreed that the property of its nationals confiscated and liquidated by the Allied Governments should be applied under the clearing-house system to the claims of citizens of the Allied and Associated Powers arising out of German "exceptional war measures and measures of transfer," comprising "measures of supervision, compulsory administration and of sequestration . . . and of sale, liquidation, or devolution of ownership, and the cancelling of titles and securities."

After the failure to ratify the Versailles Treaty much pressure was brought to bear upon Congress to prevent the return of German property until the American claims against Germany

had been taken care of; this was accentuated by the German financial collapse, the impossibility of determining the extent of the valid American claims against Germany, and the political difficulties in Europe incidental to the reparations confusion. Thus, the return of the property, though unconditionally due the German owners, became involved with the question of the ability of Germany to pay American claims. The upshot was the Knox-Porter Resolution of July 2, 1921, by which the state of war was declared at an end and "there are expressly reserved to the United States of America . . . any and all rights, privileges, indemnities, reparations or advantages together with the right to enforce the same, to which it is entitled under the terms of the Treaty of Versailles . . . or from an Act of Congress . . . or acquired from participation in the war." The Joint Resolution provided for the retention of all German property until

> the German Government shall have made suitable provision for the satisfaction of all claims against said government of all persons, wherever resident, who owe permanent allegiance to the United States of America and who have suffered, through the acts of Germany or her agents since July 31, 1914, loss, damage or injury to their persons or property, directly or indirectly, in consequence of hostilities or of any operations of war or otherwise, and until Germany shall have confirmed . . . all seizures . . . and shall have waived any and all pecuniary claims against the United States.

This provision was incorporated in the Treaty of Berlin, ratifications of which were exchanged on November 11, 1921. It is the first instance in United States history in which foreign-owned property has been held in pledge as security for governmental obligations.

In August, 1922, an agreement was signed with Germany for the submission of claims of American citizens and of the United States Government to a Mixed Claims Commission.[24] Until some idea of the probable amount of United States claims could be obtained, the movement for the return of sequestrated German property was hampered; moreover, in 1923 it was impossible to deter-

[24] See *Survey*, 1928, pp. 471–485.

mine how Germany, faced with the demands of the European Allies, would be able to pay the American claims.

In January, 1923, the administration moved for the return to German owners of the trusts under $10,000. This, it was said, would return 90 per cent in number of the trusts, while 90 per cent of the property—then amounting to some $400,000,000—would remain as a fund adequate to secure the American claims. The Winslow Act of March 4, 1925, carried into effect the policy of returning all trusts under $10,000, and paying $10,000 on all others, together nearly 30,000 in number, and paying interest to the owners, not exceeding $10,000 per year, accruing after March 4, 1923, on the property withheld. To reassure the country and the German owners the administration announced that "none of the private property of enemy aliens . . . will be applied to the payment of governmental claims" and that "the traditional American policy of not confiscating enemy private property" was to be adhered to.

After the adoption of the Dawes Plan in 1924 the Allied and Associated Powers appointed delegates to meet in Paris to agree upon a division of German reparations. The United States was interested on two accounts—reimbursement of the Rhine Army costs and payment of American claims against Germany. The Rhine Army costs had once been paid to the Reparation Commission for the American account, but had been withheld. After long effort and negotiation, including the intermediate Wadsworth Agreement, the Allies agreed that the United States should receive from future Dawes annuities a preferred payment of fifty-five million marks a year for Rhine Army costs, beginning September, 1926; on claims account the Allies agreed that the United States should receive 2¼ per cent of the reparations, not to exceed forty-five million marks of any Dawes annuity.

This was inadequate to cover the American claims, and in 1926 the Treasury Department took an active interest in solving the joint problems of American claims and sequestrated property. The Secretary of the Treasury proposed that all sequestrated property be returned, or the proceeds of that sold be paid over, and that the instalments of Rhine Army costs should be added to

the 2¼ per cent reserved on claims account in providing adequate cover for American claims. It was proposed that this advance should be repaid to the Rhine Army costs account out of future surpluses accruing from reparations on claims account after the claims themselves should have been satisfied. The requisitioned German merchant ships, taken over under the Joint Resolution of May 12, 1917, were also to be paid for.

The Settlement of War Claims Act.

This proposal was the substance of the so-called Mills Bill which was defeated in Congress. The 1927 and 1928 sessions of Congress dealt with a revised plan which, leaving aside the Rhine Army costs altogether, undertook to effect a compromise between the American claimants and the German owners by which each group surrendered the right to receive immediate payment of its entire claims, and accepted approximately 80 per cent at once and the balance later.[25] The shipowners and the owners of patents taken over directly by the War and Navy Departments consented to accept 50 per cent at once and the balance over a period of years. This is the substance of the Settlement of War Claims Act of March 10, 1928.

The Act in its title provides "for the ultimate return of all property held by the Alien Property Custodian." The German owners are to receive promptly 80 per cent of their property in kind or cash, all interest earned since March 4, 1923, in full, and 5 per cent interest-bearing certificates participating in future payments to come to the United States under the Dawes Plan[26] on claims account (45 million marks per annum) for the withheld 20 per cent of the property. For the $25,000,000 of unallocated interest fund, non-interest-bearing Participating Certificates are to be issued. A Senate amendment for the payment of interest on these latter certificates was lost in conference. It is estimated that to pay off the Participating Certificates in full will take in the normal course about twenty-five years.

[25] The provisions for the payment of American claimants against Germany are given in the *Survey*, 1928, pp. 485–487.

[26] The payment of these claims was not disturbed by the subsequent Young Plan.

As it passed the House, Section 2 of the bill provided for a declaration of policy in favor of the return of the property in full; the Senate struck out this section. Nevertheless the words "ultimate return" in the preamble and the fact that in his receipt the German owner of property sold agrees to a temporary postponement of the payment to him of the proceeds of sale encourage the belief that Congress will not permit the certificates to be defaulted upon. The Act, however, expressly provides that the "United States shall assume no liability, direct or indirect, for the payment of any such certificates, or of the interest thereon, except out of the funds in the Special Deposit Account available therefor, and all such certificates shall so state on their face." Should these funds some day prove inadequate the expectation created by the preamble of the bill would remain unsatisfied.

The Act provided for the complete return of all the property of Austrian and Hungarian citizens with interest or income from the time of seizure as soon as these countries had deposited in the Treasury a sum sufficient to take care of American claims now estimated as not exceeding four million dollars. The necessary deposit had been made by Austria but not by Hungary before January 1, 1930.

The Question of the Valuation of German Ships.

The Act provides for the appointment of an arbiter to determine the compensation to be paid by the United States to German claimants in respect of merchant vessels, radio stations, and patents taken over by the United States or purchased by it from the Alien Property Custodian. Hon. Edwin B. Parker,[27] Umpire of the Mixed Claims Commission, was appointed arbiter. He ruled that the Act gave him no authority to make any allowance to the owners of the patents bought by the Chemical Foundation.

The phenomenal fluctuations of the market prices of merchantship tonnage since the Armistice, and the fact that the price had to be fixed as of the date on which the vessels were seized made the task of valuation by precise evidence impossible and called into

[27] Judge Parker died on October 30, 1929, and Judge James W. Remick was appointed in his stead.

play the general sense of fairness of the Arbiter. The Act declares that the compensation

> shall be the fair value, as nearly as may be determined, of such vessel to the owner immediately prior to the time exclusive possession was taken under the authority of such Joint Resolution, and in its condition at such time, taking into consideration the fact that such owner could not use or permit the use of such vessel, or charter or sell or otherwise dispose of such vessel for use or delivery, prior to the termination of the war, and that the war was not terminated until July 2, 1921, except that there shall be deducted from such value any consideration paid for such vessel by the United States. The findings of the Board of Survey appointed under the authority of such Joint Resolution shall be competent evidence in any proceeding before the Arbiter to determine the amount of such compensation.

For United States tonnage sunk by Germany during the War the Mixed Claims Commission awarded to the American owners an average of $350 per dead-weight ton, and $389 per dead-weight ton for ten American cargo steamers sunk during the period of possession of the German vessels by the United States. On the sale of some of the German vessels the Shipping Board collected selling prices ranging from $50 to $165 a ton. These prices were far above those fixed for the compensation of the German owners by the naval Board of Survey in 1917, values in the main being fixed at the tonnage prices of 1914, taking into consideration the ship's age in 1917 and her equipment, and deducting the amount of any sabotage committed by the ship's crew before seizure. There was an enormous increase in the value of tonnage between 1914 and the summer of 1917. The Board of Survey disallowed this increase, stating that it was offset by the fact that at the time of their seizure the German vessels were not free to sail the seas for a period whose duration was then a matter of speculation, and which was in fact not ended until July 2, 1921.

On June 5, 1930, the Arbiter found the value of the ninety-four German vessels to be $74,243,000, a sum which includes interest at 5 per cent per annum from July 2, 1921, to December 31, 1928. The decision does not indicate how the amounts allowed for each of the vessels were arrived at, what date of valuation was

taken, or how much per ton was allowed. The finding of the Arbiter, however constituted, marks the liquidation of one of the most important controversies arising out of the World War.[28]

NOTES ON THE POLICIES OF VARIOUS ALLIED POWERS AND COLONIES IN DEALING WITH SEQUESTRATED ENEMY PROPERTY[29]

Great Britain.

German property of all description in Great Britain was sequestrated by the Public Trustee from the declaration of war, and liquidation was carried out under the direction of the Comptroller of the Clearing House. Under Article XI of the Agreement of December 31, 1920, between the British and German Governments (C.P. No. 1111) provision was made for the return to German nationals of household furniture and effects, personal belongings and family souvenirs, and implements of trade up to the amount of £500, in any case where the German authorities certified that the income of the applicant did not exceed the equivalent of £400 a year at the current rate of exchange. Similar agreements were entered into between Great Britain on the one hand, and Austria and Hungary on the other hand.

Article I, Subsection XVI, of the Treaty of Peace Order of 1919 provides in effect that all property, rights, and interests within His Majesty's dominions or protectorates belonging to German nationals at the date when the Treaty of Versailles comes into force, and the net proceeds of their sale, liquidation, or other dealing therewith, are to be charged:

[28] Through the ownership of stock in the *Allgemeine Elektricitaets-Gesellschaft*, which had a claim for one vessel, the members of the former ruling family of Germany were awarded $522.58.

[29] The attitude of the Succession States, e.g., Poland, Czechoslovakia, and several others, toward the property of the former Central Powers and their nationals is not dealt with here; properly speaking, that problem is not one of sequestration but of state succession. General policies only are outlined. There are numerous qualifications and exceptions, e.g., in Great Britain in favor of British-born women who have married Germans, in favor of applicants who are German nationals in Germany and British subjects in the United Kingdom, and so on. A full documented account of the legislative enactments and executive orders of the Allied Powers would fill more than one large volume.

(a) In the first place, with payment of the amounts due in respect of claims by British nationals in regard to their property, rights, and interests, including companies and associations in which they are interested in German territory, or debts owing to them by German nationals, and with payment of any compensation awarded by the Mixed Arbitral Tribunal, or by an arbitrator appointed by that Tribunal, and with payment of claims growing out of acts committed by the German Government or by German authorities since the 4th of August, 1914; and

(b) Secondly, with payment of the amounts due in respect of claims by British nationals with regard to their property, rights, and interests in the territories of Austria-Hungary, Bulgaria, and Turkey.

There has been agitation in English banking circles to bring about compensation for the expropriated owners, and the International Law Association, on the motions of Englishmen, has twice resolved that confiscation is to be condemned as illegal and dangerous to the future of the confiscating countries.

On December 28, 1929, Germany and Great Britain entered into an agreement concerning the liquidation of German properties which, as Philip Snowden, British Chancellor of the Exchequer, reported,

> constitutes a final settlement of all questions relating to liquidation of German properties, and therefore definitely precludes any question being raised in the future as to the proceeds of past liquidation.

By this agreement, Great Britain is to release and, where necessary, to retransfer to the German owners the property rights and interests belonging to them and now subject to the charge created in pursuance of the Versailles Treaty in so far as such property shall not have been already liquid, liquidated, or finally disposed of on August 1, 1929. Threatening to proceed with liquidation, Great Britain compelled Germany to accept two important reservations to the Agreement:

(1) In all cases where property on August 1, 1929, had been sold or released or had been the subject matter of an agreement for sale or realization or of a judgment in legal proceedings given in favor of the Administrator of German property in the United King-

dom, this property shall be considered as liquid, liquidated, or finally disposed of and therefore excluded from the release.

(2) Property in respect of which the Administrator prior to May 1, 1929, issued a certificate under the Treaty of Peace Order, is to be subject to the charge created by the Order in Council, and therefore excluded from the release.

The Agreement does not cover the self-governing dominions, British India, or the Irish Free State.

The net proceeds realized by Great Britain from liquidation of German property is about £53,000,000, while the claims of British nationals to be paid out of this money are estimated at £39,000,000, leaving a credit balance of £14,000,000. Great Britain has refused to credit this amount to the Reparation Commission to be set off against reparations obligations.

Canada.

A Treaty of Peace Order of 1920 provided for the retention and liquidation of all private enemy property on the same lines as the British Treaty of Peace Order.

The Austrian and Bulgarian property has been returned, in accordance with the terms of the Agreements of November 18, 1926, and October 16, 1928, respectively. In both cases the amount of property involved was very small; to Austria approximately $1,000,000 was paid and to Bulgaria less than $100,000. Canada holds $70,000 of Hungarian property, and Hungary owes Canada about $700,000 for Canadian property in Hungary sequestrated by Hungary. Negotiations for settling reciprocal claims are now going on.

By the Agreement of January 14, 1930, between Germany and Canada, Canada agreed to return all property not liquid, liquidated, or finally disposed of on January 7, 1929 (the date of the Experts' Report). The Agreement, *inter alia*, expressly provided that

(1) In cases where the Canadian Custodian, prior to this date, has entered into an agreement to sell, the proceeds of the sale, if payable after this date, will be turned over to the owners of the property;

(2) All sums, collected or to be collected by the Custodian in connection with liquidation after June 7, 1929, will likewise be turned over to the German owners;

(3) Property which is the subject matter of litigation in Canada, is likewise to be returned.

Any difference which may arise as to the interpretation or application of this agreement may be referred to an arbitral tribunal. Such a provision is absent in the Anglo-German Agreement of December 28, 1929.

Australia.

Under Article 297 (b) of the Versailles Treaty, Australia reserved the right to retain and liquidate property, rights, and interests belonging to German nationals. This property has been made subject to the charges authorized by clause 4 of the Annex to Articles 297 and 298 of the Versailles Treaty.

Property, rights, and interests of nationals of the other ex-enemy countries—Turkey excepted—were, subject to the provisions of the Treaties, dealt with in a manner similar to that adopted in regard to the property, rights, and interests of German nationals.

In view of the terms of the Treaty of Lausanne with Turkey, property of Turkish nationals cannot be retained by Australia, and by the direction of the Governor-General such property has been returned.

On January 17, 1930, an agreement was entered into by Australia and Germany which follows the principles of the Anglo-German Agreement of December 28, 1929. The property to be returned by Australia amounts to about £266,500. The surplus of the liquidation proceeds, which is estimated at some £4,500,000, was not released, and probably will never be released, since the Agreement constitutes a definitive settlement of German property sequestrated by Australia.

New Zealand.

Enemy property was sequestrated, and liquidated in accordance with Article 297 of the Versailles Treaty. The Agreement

of January 17, 1930, between New Zealand and Germany which follows the principles laid down in the Anglo-German Agreement of December 28, 1929, obliged New Zealand to return to Germany some £18,500 of property. The surplus of the liquidation proceeds, which amounts to about £250,000, was not released, and very likely will not be, for the January Agreement is regarded as a definitive settlement of the alien-enemy property problem.

Union of South Africa.

The South African Government seized all enemy property during the War. The property of ex-enemy nationals resident or domiciled in the Union or Southwest Africa at the outbreak of the War was released on proof of such domicile and payment of a commission of 1 per cent.

The property of other ex-enemy nationals was liquidated and the proceeds were charged with the payment of debts due by ex-enemies to South African nationals and a commission of 1 per cent, being the administration charges, while the balance was accounted for, so far as capital is concerned, by the issue of a loan stock certificate repayable at maturity in thirty years from date of issue. No income, interest, or dividend was credited to such ex-enemies to a greater extent than 4 per cent *per annum*, capitalized in respect of the period during which such income, interest, or dividend was earned.

India.

Seized ex-enemy property has been liquidated in accordance with the Peace Treaties and the Treaty of Peace Orders. The funds thus constituted were used to meet various charges created by the respective India Treaty of Peace Orders. Any balances that were left over after meeting the charges were credited to the respective ex-enemy countries in respect of their reparation obligations in accordance with Article 243 of the Versailles Treaty, Article 189 of the Treaty of St.-Germain-en-Laye, and Article 173 of the Treaty of Trianon.

The amount of Bulgarian property was so small that it has been restored to the owners.

The property of Turkish nationals has been returned to them in accordance with the provisions of the Treaty of Lausanne.

Egypt.

German private property was seized and liquidated. Officially the Egyptian sequestrator received the power, under proclamation of March 9, 1920, to release German property up to the value of £1,000. A few cases of release have taken place. On February 22, 1926, all unliquidated property vested in the Egyptian Custodian was declared divested in favor of the ex-enemy owners. The balance of the liquidation fund was turned over to the British Controller of the Clearing House.

Anglo-Egyptian Sudan.

Enemy property seized during the War was liquidated in accordance with the Liquidation Ordinance of 1920. The balance of the liquidation fund has been transferred to the British Controller of the Clearing House.

Western Samoa.

The Samoa Crown Estates Order of 1920 issued under the authority of Article 297 of the Versailles Treaty vested in the British Crown all property in Western Samoa owned by German companies and one German national. Many mortgages on these properties were held by Allied subjects, including British. The Administration of Western Samoa agreed to recognize these encumbrances against ex-German property. The rest was set off against reparations.

Japan.

The Japanese Government sold all the enemy property which was seized during the War, notwithstanding its promise at the beginning of the War that enemy subjects should not be disturbed in their possessions. Japan and Germany reached an agreement in regard to the amounts to be allowed on account of war-damage claims, the total of which was deducted from the proceeds of the enemy property which had been sold. The balance

of the proceeds remaining after the agreed war claims had been settled was released to the former owners of the seized property in the following manner:

(1) Enemy aliens who have been of service to Japan or who hold Japanese decorations shall have returned to them all their property.

(2) Thirty per cent in Tsingtau and the South Seas shall be returned.

(3) The balance remaining after the distribution of sums in accordance with the foregoing two methods shall be divided proportionately to the value of the property sequestrated.

In order to secure claims of Japanese subjects who were imprisoned during the War in Germany, or who held financial claims against enemy countries, the Japanese Government took over property of enemy aliens to the value of 12,200,000 yen. The Japanese claims amounted to 7,000,000 yen, and the amount reported to have been returned is approximately 5,700,000 yen.

France.

Enemy property was seized and a large part of it has been liquidated. An agreement concluded between Germany and France on February 6, 1920, provided for the return of articles of small value, personal belongings, and family keepsakes. With some slight exceptions, no ex-enemy property was returned to its former owners.

By the Franco-German Agreement of December 31, 1929, regarding cessation of further liquidation of German property, France agreed to return to former owners all property—with certain exceptions—provided it was not already liquid, liquidated, or finally disposed of on August 31, 1929.

With regard to property in French Morocco, and the German-owned mining concessions in Alsace-Lorraine the Agreement provides that the former owners are to have the right to sell this property within a fixed time; if they do not sell, the property is subject to a right of preëmption on the part of the French Government. The Agreement confirms a previous obligation on the

part of the French Government to return the surplus of liquidation proceeds. This includes the liquidation sums realized in the French colonies and protectorates, especially French Morocco.

Monaco.

Was Monaco associated with the Allied and Associated Powers in the prosecution of the War? Monaco did not declare war against Germany or sign the Treaty of Versailles. On the other hand the Principality was regarded as "morally" associated with France; moreover, France occupied Monaco militarily during the War in defense of both countries.

Following the destruction by the Germans of the Chateau de Marchais in the north of France belonging to the Prince of Monaco, the Monegasque authorities took conservatory sequestration measures in regard to German property in the Principality with a view to safeguarding its interests, and these measures were later the subject of an arrangement between the Prince of Monaco and Germany.

Italy.

Availing itself of the right conceded to the Allied and Associated Powers by the specific provisions of the various peace treaties, Italy by Royal Decree of April 10, 1920, and a succeeding Royal Decree of December 22, declared transferred to the State all the patrimonial assets (real estate, chattels, administration, bonds, credits, etc.) belonging to ex-enemy subjects at the date of the coming into effect of the respective treaties and existing in the territory of the Kingdom, whether they were already sequestered or under control, or whether they had not yet been taken. Through the Ministry of Commerce and Industry, and later through the Commissary for the Property of Ex-Enemy Subjects, liquidation began of the sequestered patrimonial assets; selling was first through the appropriate Prefectures and the Finance Commissioners, and later through the "Opera Nazionale dei Combattenti." The proceeds of the liquidation—less expenses of administration and sales and less previous deductions for in-

demnities agreed upon for Italian claims for damages suffered during the War which were admitted through agreements or approved by the Mixed Arbitral Tribunals which passed on claims for damages suffered during the period of neutrality—were credited to the reparations accounts of the respective ex-enemy countries.

By Agreement of September 1, 1927, Italy agreed to release to Germany certain unliquidated property. By Agreement of January 20, 1930, following the recommendation of the Young Plan of June 7, 1929, Italy agreed to pay over to the German Government 5,000,000 lire out of the liquidation proceeds to be distributed to the German nationals who had been injured by liquidation of their property in Italy.

Belgium.

A decree of November 10, 1918, provided for the sequestration of all goods and interests of whatever nature belonging to enemy nationals. Under a decree promulgated on November 17, 1921, private furniture up to the value of 25,000 francs and articles having the nature of family souvenirs were released. An order dated July 9, 1923, regulated the liquidation of German property in the Belgian Congo on the same lines as in the mother country.

By the Agreement of July 13, 1929, Belgium agreed to release German property not already liquid, liquidated, or finally disposed of on June 22, 1929. Belgium has refused to return any surplus of the liquidation proceeds.

Russia.

By a decree of February 2, 1915, Russia sequestrated enemy-owned property in Finland and in the western provinces. This decree was later extended to the whole Russian Empire. The abdication of the Czar interrupted the further carrying out of Russian war legislation. After the proclamation of the Soviet Republic, November, 1917, private property was nationalized, and the problem of alien-enemy property in the U.S.S.R. was eliminated. As a consequence, in the Brest-Litovsk Treaty between the U.S.S.R. and the Central Powers, Germany acceded

to the fact of nationalization of its citizens' property, and mutual claims between the two countries were waived.

By a special provision in the Treaty of Rapallo of 1922, Germany renounced any claims arising out of the Soviet measures of nationalization. This renunciation is to remain in force as long as Russia does not satisfy similar claims of nationals of other states.

Guatemala.

Guatemala liquidated two German electric companies, and in addition, placed German property, rights, and interests under the administration of the "Intendencia General." Upon the termination of the War, the Government of Guatemala, by a decree dated June 24, 1921, released the proceeds of liquidation as well as the seized property.

Uruguay.

During the War, Uruguay took possession of eight German vessels stationed at the port of Montevideo and chartered them to the United States. After the War, the vessels were returned to Uruguay, and then delivered by the Uruguayan Government to the Reparation Commission to be disposed of in accordance with the Treaty of Versailles for the account of Germany.

Honduras.

Honduras seized German barges and other property during the War, but repealed the sequestration measures by a decree of April, 1920, and paid compensation to the owners for the damage done.

Haiti.

Haiti resorted to sequestration of enemy property. Pursuant to a law of August, 1921, Haiti used the proceeds of the liquidation of some German property to cover certain costs and obligations due Haiti under the Treaty of Peace. Further liquidation was not undertaken, and all the proceeds of liquidation together

with the unliquidated property have been restored to the original owners.

Siam.

Enemy property was sequestrated and liquidated. A few articles of non-commercial but personal value have been released, valued at not over 100 ticals.

In the Agreement between Germany and Siam of February 28, 1924, Siam renounced certain rights based on the Treaty of Versailles, and Germany agreed to pay the Siamese Government 2,000,000 ticals for the seizure of Siamese property in German territory during the War. This sum was to be paid out of the proceeds of liquidation of German property in Siam. By the Agreement of February, 1926, Siam released the seized cash of German nationals who were deported from Siam at the end of the War, and by a diplomatic declaration Siam bound itself to return all German property not liquidated before March 25, 1925, and the balance of the liquidation proceeds.

China.

China did not sign the Treaty of Versailles; the state of war was declared ended by the Chinese Parliament on August 1, 1919. Sequestrated property was retained, liquidations continued, and the payment of interest on the German holdings of the Tientsin-Pukow Railway loans of 1908 and 1910 and of the Hukuang Railway of 1911 was stopped.

By agreement of May 20, 1921, China bound itself to discontinue the liquidation of ex-enemy property, to release the property still under sequestration, and to return to the owners the proceeds of liquidation. In exchange Germany undertook to pay in railway bonds the Chinese claims for war damages, amounting to about $35,000,000, this being one-half the value of the German property released; in addition Germany assumed as an obligation the outstanding claims which German nationals had against the Chinese Government, except the claims with regard to non-payment of interest on Chinese loans, while China re-

sumed the full payment of interest on German holdings of Chinese State Loans.

* * * * * * *

The following are the sections of the Agreement with Germany concluded at the Hague Conference January, 1930, dealing with the final disposition of German property found in the territory of the Creditor Powers at the outbreak of the War. The Agreements listed in section D constitute a final settlement of all questions relating to liquidation of German property:

C. (a.) The Creditor Governments undertake, as from the date of the acceptance of the Experts' Report of the 7th June, 1929, to make no further use of their right to seize, retain, and liquidate the property, rights, and interests of German nationals or companies controlled by them, in so far as not already liquid or liquidated or finally disposed of, including the rights of the signatory Creditor Powers under Article 306, paragraphs (5), (6), and (7) of the Treaty of Versailles.

(b.) The execution of this undertaking will be regulated by special agreements between the German Government and each of the Governments concerned.

(c.) The Signatory Governments will use every effort to clear up definitely all outstanding questions relating to the execution of this undertaking within one year after the coming into force of the New Plan.

(d.) This undertaking has no application in cases where special settlements have already been made.

D. All or some of the questions mentioned in the present Article as to the waiver of claims and the cessation of liquidation are governed, as between the German Government on the one hand and the following Governments respectively on the other hand, by the Agreements concluded on the following dates, that is to say: Belgium, 13th July, 1929 and 16th January, 1930; Great Britain, 28th December, 1929; Canada, 14th January, 1930; Commonwealth of Australia, 17th January, 1930; New Zealand, 17th January, 1930; France, 31st December, 1929; Italy, 20th January, 1930; Poland, 31st October, 1929.

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